

MINUTES
JEFFERSON COUNTY PLANNING COMMISSION
SEPTEMBER 28, 2010

The Jefferson County Planning Commission met on Tuesday, September 28, 2010, with the following Commission members present: John Maxey, President; Thomas Trumble, Vice President; Frances Morgan, Morgan Ethers, 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.

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

1. Approval of the minutes from the September 14, 2010 meeting.

Mr. Trumble suggested an amendment on page 2, paragraph 3, line 3 from “~~Mr. Morgan~~” to “*Ms. Morgan*” and on page 2, paragraph 3, and line 2 to “~~The motion ended in indecision...~~” to “*The motion failed to carry...*” Mr. Taylor moved to approve with the suggested amendments. Mr. Trumble seconded the motion which carried 6 for and 2 abstentions (Ms. Ethers and Mr. Hayes).

2. Citizens Communication: None.

3. A call for postponements: None.

4. Presentation by Mr. Don Burgess, Board Member of the Harpers Ferry Historic Town Foundation requesting the Planning Commission’s involvement in a Harpers Ferry Foundation sponsored event discussing historic preservation and land-use issues.

Mr. Don Burgess, Board Member of the Harpers Ferry Historic Town Foundation, explained the purpose and actions of the Foundation. He reported that they would be holding a workshop on November 12, 2010 from 7 PM to 9 PM to discuss historic preservation and land-use issues. He stated an invitation flyer would be sent to the planning department.

5. Postponed from the September 14, 2010 Planning Commission Meeting: 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 to allow for an extension of time to July 1, 2012 to complete the subdivision process.

Ms. Brockman stated for the record that Mr. Hayes and Ms. Morgan had confirmed watching the webcast and were comfortable voting on this issue.

There was some discussion regarding entrance issues, conditions that were placed on the project with the Community Impact Statement (CIS) approval in 2007, and whether any progress had occurred with the project since the date of the CIS approval.

Mr. Maxey moved to reopen the public hearing. Mr. Trumble seconded the motion which carried unanimously.

Mr. Richard Klein, with Alpha and Associates, distributed a letter addressed to the Planning Commission and to Mr. Groh. He introduced Mr. Nathan Cochran, Legal Counsel for the project developer, who read the letter (attached). Mr. Cochran explained the circumstances under which the project has been delayed and gave reasons why he believed the extension should be granted. Mr. Klein again stated that the access roads are a part of the lawsuit being heard in the Federal Court and would be resolved with that lawsuit. Mr. Maxey closed the public hearing.

Mr. Groh suggested that the Planning Commission go into executive session to discuss possible legal issues related to the Sloan Square Apartments project. Mr. Dailey moved to go into executive session. Mr. Taylor seconded the motion which carried unanimously. Executive session began at 7:32 PM.

Regular session resumed at 8:07 PM. Mr. Trumble moved to grant the variance as requested to July 1, 2012 for the following reasons: the Planning Commission was satisfied that the variance had met the 4 point test and that the project is currently involved in a lawsuit, the resolution of which is directly tied to whether the project could advance or not. Mr. Hayes seconded the motion which carried 7 for and 1 against (Mr. Baty).

6. Response to staff analysis on case study for Chapel View.

Ms. Brockman reported on the contact she had with Jennifer Syron, resident of Chapel View, regarding the progress of finding someone at WVU to do the case study. Discussion ensued on the Planning Commission's role in a resolution to these issues.

7. Update on Old Standard Quarry requests.

Mr. Groh stated that he had received the audio recordings that were sent in response to the Freedom of Information Act request but had not had a chance to listen to those recordings yet.

8. Discussion on the Draft Amendments to Article 4B, Wireless Telecommunications Facilities.

Mr. Barney explained the changes made to the Draft Amendments to Article 4B, Wireless Telecommunications Facilities based on the oral and written stakeholder comments. He presented related zoning amendments that would need to occur due to the amendment in Article 4B. Mr. Barney also pointed out comments from Mr. Lynn Koerner and Mr. Pete Smith, and a mark-up of the draft amendments provided by Mr. Paul Rosa that were all provided in the agenda packet. Mr. Barney explained that, once a draft was approved, the Planning Commission would hold a public hearing and then petition the County Commission who would hold an additional public hearing.

Discussion ensued regarding the fall zone amendment, Section 4B.9 (K) (2) (b), stating "The Board of Zoning Appeals may modify this setback if the applicant demonstrates that the fall zone of the support structure is less than the setback required by this section, following submission of either a signed and sealed structural analysis by a licensed structural engineer,

or specifications from the support structure manufacturer.” There was unanimous consent to strike this section from the draft amendments.

Mr. Maxey opened the meeting to public comment. Ms. Carlen M. Emanuel, Land Protection Manager, presented and read from a letter (attached) addressed to the Planning Commission from the Appalachian Trail Conservancy detailing the Conservancy’s comments on the draft ordinance. Mr. Paul Rosa, citizen of Charles Town, reviewed the suggested changes he had made to the draft amendments. Mr. Lynn Koerner, Wireless Consultant, reiterated that the PCIA would like an opportunity to make comment and to expand the time for Temporary Wireless Telecommunication Facilities (Section 4B.8 (1)) to greater than a week.

Mr. Maxey suggested reinstating the definition of Primary Public Safety Provider previously removed by staff. There was no opposition.

Mr. Maxey moved to reinstate Mr. Rosa’s original edits to Section 4B.7 (3) (c), 4B.7 (3) (d), and 4B.7 (3) (e) removed by staff in the draft amendments. Mr. Hayes seconded the motion which carried unanimously.

Mr. Maxey moved to reinstate Mr. Rosa’s language regarding the scope of the public hearing (Section 4B.9 (B)) to reference the Comprehensive Plan. Mr. Trumble seconded the motion which carried 7 for and 1 opposed (Mr. Dailey).

Ms. Morgan left the meeting at 9:03 PM.

Mr. Maxey moved to reinstate the original language in Section 4B.9 (C), Retention of Consultants. Mr. Trumble seconded the motion which carried unanimously.

Mr. Maxey moved to add Mr. Rosa’s suggested language: “Where scheduled or unscheduled maintenance will extend beyond seventy-two (72) hours, the wireless provider must obtain a Zoning Certificate. The Zoning Administrator may issue such a certificate for up to thirty (30) day period if the applicant can demonstrate to the Zoning Administrator’s satisfaction that extenuation circumstances necessitate an extension” to be included in section 4B.8 (1). Mr. Hayes seconded the motion which carried unanimously.

Mr. Maxey moved to advertise a public hearing for the October 12, 2010 Planning Commission meeting and a discussion and vote on Article 4B, Wireless Telecommunications Facilities Draft Amendments for submission to County Commission. Mr. Hayes seconded the motion which carried unanimously.

9. Blue Ridge Mountain Community Plan.

Mr. Rivard reported on the latest Citizen’s Committee meeting. He stated that there would be a review of comments received at these meetings and then a joint meeting between the Planning Commission and County Commission would be scheduled.

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

These topics were covered in the executive session.

11. Director's Report.

- Activity Report. These reports were provided in the agenda packets.
- Draft Policy on meetings involving Planning Commission members without a quorum present. Ms. Brockman presented the draft policy. Mr. Maxey asked that this be tabled until the October 12, 2010 meeting to allow for research on procedure.
- Update on Petition by Planning Commission to rezone certain Federal Lands on US 340. Ms. Brockman stated that the petition was presented to County Commission and that they would be setting a date for a public hearing.
- Follow-up on Urban Growth Boundary Issues. Ms. Brockman reviewed the issues with getting the municipalities to approve the Urban Growth Boundaries (UGB). Ms. Brockman stated she would visit with the Harper's Ferry Town Council to discuss the UGB on October 11, 2010
- October 1, 2010 Smart Code On-Site Workshop. Ms. Brockman reminded the Planning Commission of this workshop and stated three of the Planning Staff were scheduled to go.
- Status of Land Development Fees. Ms. Brockman reported that this topic would be discussed at the County Commission meeting on October 7, 2010.
- Follow-up on discussion of Planning Commission Authority outside of WV Code 8A. Ms. Brockman stated that the Improvement Location Permit Ordinance had been the document dictating what project would require a site plan. She reported that the Planning Commission may be able to hold a Brownfield District to stormwater management standards.
- Status of Zoning Ordinance Amendments. Ms. Brockman reported that the amendments to Article 4B, Wireless Telecommunications Facilities, had taken up more staff time than planned and had caused the Zoning Ordinance Amendments to be delayed. She stated that the staff had started working on the formatting of the Zoning Ordinance and that a cleanup of the ordinance would be the next step. She reminded the Planning Commission that amendments to the Subdivision Regulations were still necessary. Mr. Trumble asked that Ms. Brockman provide the Planning Commission with a work plan detailing the priorities and deadlines of the staff. Mr. Maxey stated that Article 4.4 (h) referenced the incorrect section of the Subdivision Regulations and directed staff to draft an amendment to that article.
- Urban Tree Canopy Grant. Ms. Brockman stated that staff had drafted a memorandum of understanding to distribute to the cities of Charles Town and Ranson.

12. County Commission Liaison Report. None.

13. Planning Commission Exchange. None.

14. President's Report. None.

MINUTES
JEFFERSON COUNTY PLANNING COMMISSION
SEPTEMBER 28, 2010
PAGE 5 of 5

15. **Actionable Correspondence.** None.

16. **Non-Actionable Correspondence.** Ms. Brockman presented an email to Mr. Yogesh Patel and a letter addressed to County Commissioner Lynn Widmyer from Mr. Terry Marcus, President of the Jefferson County Development Authority regarding the proposed signalized intersection at U.S. Route 340 and County Road 7.

Mr. Maxey moved to adjourn at 10:02 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.