

MINUTES
JEFFERSON COUNTY PLANNING COMMISSION
OCTOBER 12, 2010

The Jefferson County Planning Commission met on Tuesday, October 12, 2010, with the following Commission members present: John Maxey, President; Thomas Trumble, Vice President; Frances Morgan, Morgan Etters, Eric Smith, 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. Dailey and Mr. Hayes were absent with notification.

Mr. Maxey called the meeting to order at 7:01 PM.

1. Approval of the minutes from the September 28, 2010 meeting.

Mr. Trumble raised concern regarding whether the voice recording or the written minutes are the official record of the meeting. He suggested that all motions and outcomes be included in an appendix at the end of the minutes. Mr. Maxey asked that, if Mr. Trumble would like to amend the policy to include an appendix, that it be discussed at the next meeting.

Ms. Morgan suggested that, if a policy of that nature is adopted, the Planning Commission be responsible for providing correct wording of that motion to staff by the end of a meeting.

Mr. Maxey moved to amend the minutes on page 2, paragraph 3 to add a comma instead of a period after the word "lawsuit" and to change "The" to "the". There were no objections.

Mr. Maxey moved to adopt the minutes with the discussed changes. Mr. Trumble seconded the motion which carried 6 for and 1 abstention (Mr. Smith).

Mr. Maxey introduced the newest member to the Planning Commission, Mr. Eric Smith.

2. Citizens Communication: None.

3. A call for postponements: None.

Mr. Maxey asked that agenda item #5 be heard before agenda item #6.

5. Request by Barbara Feldman and Barry Whitebook for a waiver from Section 20.203 (D) (2) to waive the requirement for stormwater management from Appendix A 1.3 (A) (15) to waive the need for a topographic study, and from Appendix B 9.4 (E) (3) to waive the required width for the access road. This property is located at 448 Southerly Lane, Charles Town and is designated as Tax District: 2, Map: 9, Parcel: 4.17.

Mr. Rivard read from his staff report and recommended approval to waive the required access width. He presented photographs along with his report. In response to questions raised by Ms. Morgan, Ms. Brockman explained that the property had setback violations due to the Cottage Industry classification and that Ms. Feldman had submitted a variance from the setback requirements to be heard by the Board of Zoning Appeals in November.

Mr. Saunders explained that the Engineering Department felt she only met one of the four criteria for a waiver. He stated that he felt that the stormwater management requirement should not be waived. Mr. Saunders recommended denial of the waivers. He requested that if the waivers were approved that limitations be set by the Planning Commission.

Mr. Maxey opened the public hearing. Ms. Barbara Feldman, owner, presented additional photographs detailing the property. She stated that classes would be separated by 20 minutes to change the flow of traffic and that there would only be about 8 cars daily traveling the access road and that students being dropped off would use the residential driveway and not the access road. Ms. Feldman explained that she had no previous issues with stormwater management, as the property had no water related issues even with the large amounts of snow that occurred this past winter. She reported the benefits to individuals in the community that take her healing arts and martial arts classes.

Ms. Stephanie Simpson, one of Ms. Feldman's students, who is also an agriculturalist and a licensed contractor, stated that she had viewed the property and saw no stormwater management issues. She reported to the quality of the property and the access road and supported the approval of the waivers.

Ms. Kirsten Lee, one of Ms. Feldman's students, attested to the benefits of the healing arts classes provided by Ms. Feldman.

Mr. Mark Salowitz, Ms. Lee's husband, echoed the benefits of Ms. Feldman's classes.

Mr. Maxey closed the public hearing.

Mr. Taylor moved to table this item until following the Board of Zoning Appeals decision and to rehear at the December 14, 2010 Planning Commission meeting. Mr. Trumble seconded the motion which carried unanimously.

Mr. Maxey directed staff to attempt to contact the neighbor who had not submitted any favorable or unfavorable response to these issues and to request that the Addressing/GIS Department provide a map with elevations.

4. Public hearing regarding amendments to Article 4B, Wireless Telecommunications Facilities and related amendments to and related amendments to Sections 2.2, 4.3, 4.4, 4.11, and 9.2 of the Jefferson County Zoning Ordinance. Possible discussion and vote on Article 4B, Wireless Telecommunications Facilities to submit to County Commission.

Mr. Barney presented the draft amendments and new correspondence in regards to Article 4B, Wireless Telecommunication Facilities. He stated that he had just received the markup of the draft submitted by the PCIA. Mr. Barney reported that the website, where the most recent version of the draft amendments were posted, was not functional the weekend prior to the meeting. Mr. Barney explained the staff recommendation that wireless facilities follow a

Concept Plan Process instead of a Minor Site Plan Process due to the limited timeframe a Minor Site Plan Process provides.

Mr. Maxey opened the public hearing. Mr. Tim Dennis, Global Tower Partners, apologized to the Planning Commission for the delay in getting the document to staff.

Mr. Charles Ryan, Attorney, commented on Section 4B.5 2 (a), (b) and (c). He stated that these specific amendments, regarding collocated wireless telecommunications facilities, present substantial compliance problems for the contractor and carrier. Additionally, it would favor the existing carrier, which might be in violation of the Federal Telecommunications Act. He detailed the need for platforms and catwalks on a tower. Mr. Ryan also raised concern that 4B.5 2 (c) does not allow attachments of antennas to be interconnected which may interfere with Building Officials and Code Administrators (BOCA) codes. He expressed that, in 4B. 7 (D), he was unsure of how a bona fide need would be proven.

Mr. Paul Rosa, citizen of Charles Town, discussed the applicant's burden of proof and explained that before and after propagation maps and an engineer's affidavit would demonstrate a bona fide need. He rebutted Mr. Ryan's comments concerning platforms.

Ms. Morgan suggested that the Planning Commission allow time for review of the industry comments.

Mr. Rosa suggested to change the word "and" to "or" in Section 4B.6 (2) line 6.

Mr. Trumble suggested having a deadline to which comments would be accepted. Mr. Maxey recommended holding a special meeting allowing staff to review the industry comments and suggesting changes in regards to those comments. Mr. Maxey appointed a subcommittee consisting of Mr. Maxey, Ms. Etters, Mr. Taylor, Ms. Morgan, and Mr. Trumble, who would be empowered by the Planning Commission to approve changes to the draft of Article 4B, Wireless Telecommunication Facilities Amendments. It was decided that a special meeting would be held Tuesday, October 19, 2010 at 4 PM. Mr. Maxey asked Mr. Groh to review the draft following the approval of changes made at the special meeting and provide a legal opinion of the draft at the October 26, 2010 Planning Commission meeting. Additionally, Mr. Maxey asked for Ms. Brockman to send an agenda request form to the County Commission staff in order for the draft to be presented at the October 28, 2010 County Commission meeting.

6. Discussion on proposed draft amendment to Section 4.4 (H) of the Zoning and Land Development Ordinance.

Mr. Barney presented a change to Section 4.4(H) of the Zoning and Land Development Ordinance which referenced Section 14.2 of the Subdivision Ordinance. That ordinance is no longer in effect. Mr. Barney stated that the reference had been changed to "Section 22.504 Protection of Resources on the Subdivision and Land Development Regulations".

Mr. Maxey suggested tabling this agenda item until the October 26, 2010 Planning Commission meeting and asked staff to also address incorrect references to Sections 4.10, 5.4, 5.6, 5.7, 7.2, 7.8, 11.2, and 11.3 of the Zoning and Land Development Ordinance and to provide all the amendments at the next meeting. Mr. Trumble moved to table this item to the October 26, 2010 Planning Commission meeting. Mr. Taylor seconded the motion which carried unanimously.

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

Mr. Rivard updated the Planning Commission regarding the Blue Ridge Mountain Community Plan. He stated that a draft had been posted to the website and that comments would be taken until November 8, 2010. Ms. Brockman stated that there would be a joint meeting with County Commission on December 7, 2010 unveiling the vision statement for the Blue Ridge Mountain Community Plan.

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

Mr. Groh reported that County Commission had approved hiring another attorney who may take over representing the Planning Commission for Mr. Groh in January. Mr. Maxey asked that the Planning Commission have a chance to review the incoming resumes.

9. **Director's Report.**

- a. **Activity Report.** This report was provided in the agenda packet.
- b. **Status of Land Development Fees.** Ms. Brockman reported that she had presented the Land Development Fees to County Commission on October 7, 2010 and that County Commission felt the fees were too high. She stated that County Commission had sent a request back to the Planning Commission to review those fees and provide a recommendation. Mr. Maxey moved that staff be directed to obtain cost scenarios for the four scenarios that were presented to the County Commission from the jurisdictions of Fredrick and Loudon County and that those be presented at the November 9, 2010 Planning Commission meeting along a proposal of new fees that would represent no more than a 20% increase over current fees for any of those projects. Mr. Trumble seconded the motion which carried unanimously.
- c. **Quarterly Report on Fiscal Year 2011 Work Plan.** Ms. Brockman presented the quarterly report and stated she would also submit it to the County Commission. She discussed the upcoming Annual Report prepared by the Planning Commission to be submitted to the County Commission and suggested appointing a subcommittee to work on that report. Mr. Maxey asked that an item for discussion be placed on the October 26, 2010 Planning Commission Meeting agenda. Mr. Maxey expressed interest in obtaining the number of buildable platted lots that have been approved during the year to include in the annual report. Ms. Brockman stated that she would obtain information from Mr. Todd Fagan of the GIS Department.
- d. **Work Plan for Long Range Planning Activities.** Ms. Brockman explained upcoming goals of the department: the Vision Statement for the Blue Ridge Community Plan to be completed in December, the Zoning Ordinance Map Amendments to be presented in December, and the Zoning Ordinance Text

Amendments to have a draft completed in November. Discussion ensued regarding priorities in presenting the Zoning Ordinance Text Amendments. Ms. Brockman also explained that the presentation of Fees and work on the Federal Rezoning Petition were also being done.

- e. **Draft Policy on meeting involving PC members without a quorum present.** Ms. Brockman presented the draft policy. Mr. Maxey moved to approve the memo, as written by staff (attached), as an additional item to Planning Commission policy. Mr. Trumble seconded the motion which carried unanimously.
- f. **Informational Item: Recent Internal Policy on application of the word “days” for the purpose of public notice requirements.** Ms. Brockman presented a staff policy to interpret the word “days”, in regards to any public notice requirement, to mean calendar days.
- g. **Report on Urban Growth Boundary meetings.** Ms. Brockman stated that she had attended a Harpers Ferry Town Council Meeting where she explained the purpose of the Urban Growth Boundary to be shown on the County map. She stated that she had requested to attend the next Shepherdstown Town Meeting; however there had been no response. Ms. Brockman reported that staff was close to completing the updated draft zoning map which she hoped to be able to present at the December 14, 2010 Planning Commission meeting.
- h. **Upcoming meetings.** Ms. Brockman reported that there would be a National Trust for Historic Preservation meeting November 12, 2010. She stated that the County Commission had tentatively scheduled a public hearing for the Federal Lands Rezoning for November 18, 2010 at 7 PM. She presented a letter from County Commission requesting for the Planning Commission to delay or withdraw the petition for the Federal Lands Rezoning until the 340 Corridor Plan had been drafted. Mr. Maxey stated that he felt the Planning Commission should continue to move forward with the petition. Discussion ensued on drafting a response to County Commission. Mr. Maxey offered to draft a response for review at the October 26, 2010 meeting.

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

11. **Planning Commission Exchange.** None.

12. **President’s Report.** None.

13. **Actionable Correspondence.** None.

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

Mr. Maxey moved to adjourn at 10:39 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.