

MINUTES
JEFFERSON COUNTY PLANNING COMMISSION
OCTOBER 26, 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, Kelly Baty, Eric Smith, Arnold Dailey, Daniel Hayes, and Morgan Etters. 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. Gene Taylor was absent with notification.

Mr. Maxey called the meeting to order at 7:00 PM.

1. Approval of the minutes from the October 12, 2010 Planning Commission Meeting.

Ms. Morgan moved the following amendments to the October 12, 2010 Planning Commission Meeting:

- a) On page 3, paragraph 2, line 4, change “Additionally, it would favor to the existing carrier, ~~which violates~~ the Federal Telecommunications Act” to “Additionally, it would favor the existing carrier, *which might be in violation* of the Federal Telecommunications Act.”
- b) Ms. Morgan discussed page 4, section 9b, to clarify that the 20% increase in fees meant no more than 20% per step and not 20% in total.
- c) On page 5, section h, line 7, change “Mr. Maxey stated that he felt the Planning Commission ~~could~~ continue to move forward with the petition” to “Mr. Maxey stated that he felt the Planning Commission *should* continue to move forward with the petition.”

Mr. Maxey seconded the motion which carried 4 for and 2 abstentions (Mr. Dailey and Mr. Hayes).

Ms. Morgan moved to approve the minutes of the October 12, 2010 Planning Commission meeting with the approved amendments. Ms. Etters seconded the motion which carried 4 for and 2 abstentions (Mr. Dailey and Mr. Hayes).

Approval of the minutes from the October 19, 2010 Special Planning Commission Meeting.

Ms. Morgan moved to approve the minutes from the October 19, 2010 Special Planning Commission Meeting. Mr. Hayes seconded the motion which passed by unanimous consent.

- 2. Citizens Communication:** Mr. J. Michael Cassell, Attorney, representing Old Standard Quarry, LLC and Eugene Cappriotti, requested to give comment regarding the Federal Lands Rezoning. Mr. Cassell had provided a letter to the Planning Commission which was included in the agenda packets. He stated that his clients were adjacent land owners to the Federal Lands. He commented the proposal had too many unanswered questions to move forward

such as information on what meetings with Federal Officials have been held, reports regarding the proposal, who proposed the rezoning, and legal opinions. He requested that all information be made public as soon as possible.

Ms. Barbara Humes, citizen of Harpers Ferry, voiced her support of moving the proposal forward and stated the importance of having these lands rezoned before the commencement of the US 340 Corridor Study.

Mr. Scott Faulkner, citizen of Harpers Ferry, also declared his support and stated that the rezoning of the Federal Lands is strictly bringing these lands into compliance of the Zoning Ordinance.

Mr. Baty entered the room at 7:13 PM.

Mr. Paul Rosa, on behalf of the Harpers Ferry Conservancy, urged the Planning Commission to move forward with the petition as scheduled on November 18, 2010.

Mr. Matt Knott, owner of River Riders, raised concern that most of the lands were being rezoned agricultural although not necessarily being used agriculturally. He stated he felt that the adjacent property owners would be affected.

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

Mr. Maxey asked that agenda item #9 be heard before agenda item #4.

9. **Planning Commission response to a letter from County Commission regarding certain US 340 Federal Lands rezoning as petitioned by the Planning Commission.**

Mr. Maxey presented a letter in response to Ms. Lynn Widmyer's, County Commissioner, request for the Planning Commission to reconsider the Federal Lands Rezoning petition. Mr. Maxey suggested that staff place all information regarding this topic on the County website. Mr. Hayes moved to approve the letter as written. Ms. Morgan seconded the motion which carried unanimously.

4. **Request by Roderick Planes, LLC for a variance from Subdivision Ordinance Article 6, Section 6.3 to allow for an extension of the Community Impact Statement until July 1, 2012 to comply with design impacts.**

Mr. Dailey asked to hear from the applicant prior to hearing the staff report.

Mr. Smith entered the room at 7:40 PM.

Mr. Fred Gates, with Gates Associated, Inc., gave a presentation and distributed a packet of documents supporting reasons for the variance request. Mr. Gates explained the impact of the Flood Plain Ordinance on the project and outlined reasons for the delays faced by the project. Mr. Maxey and Mr. Trumble voiced that the documents should have been provided to the Planning Commission prior to the meeting to allow for proper review. Mr. Gates continued with his presentation stating that the project is now on track.

Ms. Morgan moved to table the discussion until the November 9, 2010 meeting. Mr. Hayes seconded the motion which carried unanimously.

5. Request by The William H. Scott Inter Vivos Trust Property for a waiver from the Subdivision and Land Development Regulations Section 20.102 B to alter the existing order of process for plan review.

Mr. Rivard read from his staff report and recommended approval. Mr. Saunders deferred to the Planning Staff.

Mr. Pete Kubic, on behalf of The William H. Scott Inter Vivos Trust, explained the project. He stated that they hoped to complete the project by early spring. He clarified that there was no intent with the request of this waiver to deviate from any of the requirements outlined in the Subdivision Ordinance and that it was only a request to allow the grading plans to be submitted and bonded separate from the remainder of the site plan. He reported that the grading plans would be submitted within five days if the waiver is approved.

Mr. Maxey opened the public hearing. Mr. Doug Lawrence, adjoining property owner, voiced appreciation of the notification given. He raised concern regarding the noise coming from the Summit Point Race Track especially from the Improvised Explosive Devices (IED). Mr. Martin Burke, adjoining property owner, reiterated the noise problems and requested that the Planning Commission to review the file approving the Shenandoah Circuit. He stated that Mr. William Scott had made promises to the community regarding noise during the meeting discussing that circuit. Mr. Maxey closed the public hearing.

Mr. Maxey asked that staff research files related to the Shenandoah Circuit to find the noise conditions that were imposed and to report back regarding that at the December 14, 2010 meeting.

Mr. Maxey moved to approve the waiver with the staff recommended motion (attached). Mr. Trumble seconded the motion which carried unanimously.

6. Action on Final Draft of the Amendments to Article 4B, Wireless Telecommunications Facilities, and related sections of the Zoning and Land Development Ordinance.

Mr. Barney presented the Final Draft of the Amendments to Article 4B, Wireless Telecommunications Facilities and related sections of the Zoning and Land Development Ordinance and reviewed the changes made at the October 19, 2010 Special Planning Commission meeting. He distributed comments that Allegheny Power had submitted.

Mr. Trumble moved to approve the document with the staff recommended motion. Mr. Hayes seconded the motion. Mr. Maxey allowed comment from Mr. Knott and reminded him that the County Commission would also welcome comment at the Public Hearing that they hold. Mr. Knott raised concern that his property is directly affected by the Harpers Ferry Park District overlay on the map. He stated that he felt it was unreasonable to force a land owner to comply with the wishes of the Park Service. Discussion ensued that the Park

Service would not be allowed to approve or deny a cell tower, only to provide comment. The motion passed unanimously.

7. Discussion regarding proposed Amendments to the Zoning and Land Development Ordinance (Sections 4.4, 4.10, 5.4, 5.6, 5.7, 7.2, 7.8, 11.2, 11.3) regarding Subdivision Regulation References.

- **Tabled from the October 12, 2010 meeting: Discussion on proposed draft amendment to Section 4.4 (H) of the Zoning and Land Development Ordinance.**

Mr. Barney presented a draft of the Amendments to the Zoning and Land Development Ordinance regarding Subdivision Regulation References including Section 4.4 (H) which was tabled at the October 12, 2010 Planning Commission meeting. Ms. Morgan moved to table Mr. Barney's recommended changes with respect to cross references and edits to the Zoning Ordinance until the next Planning Commission meeting scheduled for November 9, 2010. Mr. Maxey seconded the motion which carried unanimously.

8. Discussion and possible action regarding Memorandums of Understanding with the Municipalities concerning Development Referrals.

Ms. Brockman presented a memorandum regarding the proposed Memorandums of Understanding with Municipalities concerning development notification. She stated that staff recommendation would be to notify the municipality of any development within the Urban Growth Boundary they have adopted. Ms. Brockman also recommended contacting the municipalities for their opinions on this concept. Discussion ensued on circumstances when it would be proper for notification and what topics should be involved in the memorandum. Mr. Maxey suggested that this topic be presented at the Shepherdstown Planning Commission Meeting scheduled for November 15, 2010.

9. This item was heard prior to agenda item #4.

10. Discussion of possibly appointing Planning Commission Liaisons to attend PSD, WAC, JCDA, and Health Department meetings.

Ms. Brockman explained that there are many meetings that she regularly attended and that, with the 340 Corridor Study approaching, she would appreciate Planning Commission volunteers to attend these meetings. Ms. Morgan volunteered for the Board of Health Meetings since she was already in attendance to those. Mr. Hayes volunteered to attend the Public Service District meetings. Mr. Maxey volunteered to attend the Water Advisory Committee meetings. Ms. Brockman asked that Mr. Taylor report to the Planning Commission regarding the Parks and Recreation meetings since he was already on that board. Ms. Brockman will contact Mr. Taylor to request that. Mr. Trumble volunteered to attend the Jefferson County Development Authority. Mr. Maxey stated that he would draft letters to the mentioned boards.

11. Reports from Legal Counsel and legal advice to PC.

Mr. Groh stated that the James Gibson, et al v. The Jefferson County Planning Commission Case No. 09-C-364 case had set a status hearing for December. He stated he would provide the order as soon as received.

Mr. Groh made comment that the Amendments to Article 4B, Wireless Telecommunications Facilities, were well written and easy to understand.

Mr. Groh asked the Planning Commission how they prefer to be presented information regarding questions and comments submitted to legal. Mr. Maxey stated that he prefers any questions or comments presented to legal are in a written format.

Discussion ensued on allowing comment after the public hearing has been closed and having documents submitted after the deadline. Mr. Maxey directed staff to write a policy stating that late submitted documents could result in postponement of request.

12. Director's Report.

- Activity Report. The Activity Reports were provided in the agenda packet. Ms. Brockman stated that Ms. Tiffany Lawrence would be holding a meeting Friday October 29 at 2 PM to the present status of various projects.
- Discussion of potential policy regarding motions and PC minutes. Ms. Brockman stated that the motions were quoted as much verbatim as possible.
- Ms. Brockman asked the Planning Commission if there would be a quorum for the December 21, 2010 meeting. Mr. Maxey asked that this be discussed again at the end of the November 9, 2010 meeting.
- Upcoming CC agenda items. This information was provided in the agenda packet.
- Reminder of Upcoming Meetings. This information was provided in the agenda packet.

13. County Commission Liaison Report. None.

14. Planning Commission Exchange. None.

15. President's Report. None.

16. Actionable Correspondence. None.

17. Non-Actionable Correspondence. None.

Mr. Hayes moved to adjourn at 10:07 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.