

MINUTES
JEFFERSON COUNTY PLANNING COMMISSION
NOVEMBER 9, 2010

The Jefferson County Planning Commission met on Tuesday, November 9, 2010, with the following Commission members present: John Maxey, President; Thomas Trumble, Vice President; Frances Morgan, Morgan Etters, Daniel Hayes, Arnold Dailey, 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. Maxey called the meeting to order at 7:00 PM.

1. **Approval of the minutes from the October 26, 2010 Planning Commission Meeting.**
Mr. Trumble moved to approve the minutes of the October 26, 2010 Planning Commission Meeting. Mr. Hayes seconded the motion which carried 5 for and 1 abstention (Mr. Taylor).
2. **Citizens Communication:** None.
3. **A call for postponements:** Ms. Brockman asked for a postponement to the December 14, 2010 meeting for item #7, Report on Revised Fee Schedule. Item #7 was stricken from the agenda.

Ms. Morgan entered the room at 7:02 PM.

4. **Informational Item: US 340 rezoning of certain Federal Lands Petition Discussion.**
Ms. Brockman explained that the County Commission had voted to cancel the public hearing for the rezoning of Federal Lands Petition finding the petition being inadequate according to the requirements sited in the Jefferson County Zoning Ordinance Section 12.3. A memorandum and a copy of the petition filed with the County Clerk on November 1, 2010 were provided in the agenda packets.

Ms. Lynn Widmyer, County Commissioner, thanked the Planning Commission for their services. She explained that, due to legal counsel, the County Commission voted to cancel the public hearing and that the petition could be resubmitted, however time frames would start over. She expressed concern regarding the timing of the petition and suggested that waiting to submit another petition until the US 340 Study had been completed may be beneficial.

Mr. Smith entered the room at 7:17 PM. Mr. Baty entered the room at 7:22 PM.

Mr. Maxey asked Commissioner Widmyer of the proper timing of the scheduling of the Wireless Telecommunications Amendments Public Hearing. Ms. Widmyer confirmed that January would be best. Mr. Maxey also raised concern that adequate legal advice is not being provided to staff. Ms. Widmyer suggested, when the process of a situation is unclear,

to write a policy detailing steps being taken and have the Planning Commission's legal staff and the County Commission's legal staff sign that policy.

Mr. Maxey distributed two draft policies that he had written, Policy on Land Use Change Requests within a Defined Planning Commission Study Area and Policy on Submission of Recommendations for Amendments to the Zoning Ordinance, to be reviewed and voted on at the December 14, 2010 Planning Commission meeting. Ms. Widmyer suggested that these policies be reviewed by legal to ensure state law is being upheld before voting on them.

Mr. Hayes moved to reconsider the vote of submitting a petition for the Federal Lands Rezoning to the County Commission. There was no second. The motion did not carry.

5. Tabled from the October 26, 2010 Planning Commission Meeting: Request by Roderick Planes, LLC for a variance from the 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. Rivard read from his staff report and recommended approval for a time extension until July 1, 2012. Mr. Saunders read from his staff report and raised concern of flooding and floodplain issues and sewer design issues. Mr. Saunders deferred to the applicant on how these issues would impact a time extension. He stated that, although he was not opposed to the time extension, he did not believe the documentation submitted supported a time extension.

Mr. Fred Gates, with Gates Associated, Inc., discussed the concerns of the Engineering Department with flooding and floodplain and sewer design issues. He gave a history and timeline of delays and issues that the project had encountered to date and his projection of how any outstanding issues will be handled.

Mr. Maxey opened the public hearing. There was no public comment. Mr. Maxey closed the public hearing. Mr. Dailey asked to hear from Sue Lawton of the Jefferson County Public Service District. Mr. Taylor moved to reopen the public hearing. Mr. Dailey seconded the motion which carried 7 for and 2 opposed (Mr. Trumble and Mr. Baty).

Ms. Lawton addressed the Planning Commission and explained the changes that the sewer lines required stating that the Public Service District had not finalized those changes. She voiced support of the project.

Mr. Gates stated that the project is not dependent upon the future sewer line plan proposed by the Public Service District. He explained that there is a working pump station on site that will be upgraded however it would still flow into the Charles Town Sewer Plant.

Mr. Patrick Henry, attorney for the developer, stated that the developer has complied with all measures in an attempt to prevent legal action. He reiterated the issues in getting the Conditional Use Permit and the tight timeframes of getting approvals.

Mr. Morris Gladhill, owner and developer of Aspen Greens, explained that the downfall of the economy was not a reason for the delays of the project and that no attempt to abuse the process had been made. He clarified reasons that the extension was being requested.

Mr. Will Hoss, Antrack Engineering, stated the importance of ensuring that flooding and sewer issues are addressed before approval.

Mr. Maxey closed the public hearing.

Mr. Trumble moved to go into executive session. Mr. Baty seconded the motion which carried unanimously. Executive Session began at 8:52 PM.

Mr. Dailey moved to come out of executive session and resume regular session. Mr. Hayes seconded the motion which carried unanimously. Regular session resumed at 9:09 PM.

Mr. Dailey moved to grant the variance for Roderick Planes, LLC for an extension to July 1, 2012 with staff contingencies. Mr. Taylor seconded the motion which carried 8 for and 1 opposed (Mr. Baty).

6. Update and status report on policy neutral technical amendments for the Zoning Ordinance.

Mr. Barney provided the Planning Commission with an update on policy neutral technical amendments for the Zoning Ordinance. He stated that the first phase would be just a cleanup of the ordinance by fixing typographical changes and small discrepancies within the text. Mr. Barney gave an overview of proposed changes and stated that a complete draft of the first phase of amendments was projected to be prepared by the December 14, 2010 Planning Commission meeting. Mr. Maxey asked that the scheduling of a work session be added to the December 14th agenda.

7. Report on Revised Fee Proposals.

This item was stricken from the agenda.

8. Appointment of a sub-committee for the Annual Report.

Ms. Brockman gave an update on her discussions with the GIS/Addressing Department. Mr. Maxey explained that a sub-committee would be needed to draft the Annual Report and volunteered for that sub-committee. Ms. Brockman stated that she would send out last year's Annual Report to all Planning Commission members as a reference to details needed in the report. Mr. Trumble and Mr. Hayes also volunteered for the Annual Report sub-committee.

Mr. Maxey asked that sub-committees for the Budget Report and for the Work Plan be appointed at the December 14, 2010 Planning Commission meeting.

9. Discussion of updated Zoning Map and draft Zoning Map Policy.

Ms. Brockman detailed the work accomplished by the joint effort of the GIS/Addressing Department and the Planning and Zoning Department. A draft of the updated Zoning Map was provided in the agenda packets. Ms. Brockman explained that the only Urban Growth Boundaries that have been adopted were for Charles Town and Ranson and therefore those were the only Urban Growth Boundaries shown on the draft map. She stated that she would like to present a policy regarding updates to the Zoning Map when Zoning Ordinance Amendments deem necessary. Mr. Maxey asked that Legal review the map policy and provide a written opinion at the December 14, 2010 Planning Commission meeting.

Ms. Brockman reported that the Harper's Ferry Town Council adopted an Urban Growth Boundary and approved an annexation within that boundary. She stated that she needs legal advice on if that action falls within regulations. Mr. Maxey also asked that Legal research whether the County Commission needs to approve each of the Urban Growth Boundaries and report back at the next Planning Commission meeting.

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

Mr. Groh asked that the Planning Commissioners each fill out the Volunteer Registration form provided in the agenda packet.

Ms. Brockman reported that a letter had been submitted from Nathan Cochran, Attorney, requesting a time extension for Far Away Farms to July 29, 2015. She stated that the Planning Department request for Mr. Cochran to submit a formal application to which he responded with refusal to do so and requested to be heard at the December 14, 2010 Planning Commission meeting. Ms. Brockman explained that staff policy is to place it on the agenda as actionable correspondence without a formal application unless directed differently by the Planning Commission. Mr. Groh explained that, through conversations with the attorney's office, he believes the representatives for Far Away Farms feel that a tolling of time should be granted to them without a formal application.

11. Director's Report.

- Activity Report. The Activity Report was provided in the agenda packets.
- Update on availability of topographic data from the County GIS office. Ms. Brockman stated that the GIS Department could provide a map of 2 foot contours, however, the data could only be retrieved from 2005 and if the land had been changed since then, the data would not be accurate. Ms. Brockman stated that this information could be provided for Barbara Feldman's waiver that will be heard on the December 14, 2010 Planning Commission meeting.
- Ms. Brockman provided an overview of the November 3, 2010 EPA Chesapeake Bay meeting re: WV Water Implementation Plan (WIP). Ms. Brockman stated that she would provide the Planning Commission with a copy of the presentation given to County Commission by Craig Yonn regarding the Chesapeake Bay and Nutrient Trading at the next Planning Commission meeting.

- Staff Policy regarding Clarification of Definition of a Minor Site Plan. Ms. Brockman clarified that if a site plan did not require a building permit and is under 5,000 square feet, then it would be considered a Minor Site Plan.
- Draft Planning Commission Policy on submittal of supporting information for actionable items. Ms. Brockman presented a policy stating that all supporting information for any agenda item must be provided no less than two weeks before the scheduled meeting. Mr. Maxey asked that legal review this policy.
- Ms. Brockman gave an overview on the October 28, 2010 County Commission items:
 - Wireless Telecommunications Ordinance Amendment. Ms. Brockman reported that this discussion had not been scheduled.
 - Response Letter re: US 340
 - Work Plan Quarterly Report
- Ms. Brockman reviewed upcoming County Commission Agenda Items:
 - Wireless Telecommunications Ordinance Amendment
 - Zoning Map Update and Zoning Map Policy
 - Proposal to Count Commission to set regular evening meeting dates to accommodate upcoming public hearing requirements for text amendments.
- Ms. Brockman reminded the Planning Commission of Up Coming Meetings:
 - National Trust for Historic Preservation on November 12, 2010 at 7 PM.
 - Shepherdstown Planning Commission meeting on November 15, 2010 at 7:30 PM.
 - Joint Meeting of the Planning Commission and County Commission regarding the Blue Ridge Mountain Communities Watershed planning effort on December 7, 2010 at 7 PM.
- Ms. Brockman discussed upcoming Planning Commission Meetings:
 - December 14, 2010:
 - The Barbara Feldman waiver of various Subdivision standards would be continued.
 - There would be a report back on the Scott noise agreement and noise regulations.
 - December 21, 2010:
 - This meeting was previously rescheduled from the regularly scheduled December 28, 2010 meeting.
 - Ms. Brockman reported that there were no agenda items for this meeting scheduled. She asked if the meeting would have a quorum or if it should be cancelled. Mr. Maxey stated that a decision on whether to cancel this meeting or not would be discussed at the next Planning Commission meeting.

12. **County Commission Liaison Report.** None.

13. **Planning Commission Exchange.** None.

14. **President's Report.** None.

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15. **Actionable Correspondence.** None.

16. **Non-Actionable Correspondence.** This item was previously discussed.

Mr. Hayes moved to adjourn at 11:00 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.