

MINUTES
JEFFERSON COUNTY PLANNING COMMISSION
JANUARY 13, 2009

The Jefferson County Planning Commission met on Tuesday, January 13, 2009, with the following Commission members present: Robert Reynolds, President; Arnold Dailey, Vice President; Lynne Deming, Secretary; John Sidor; Edward Dunleavy; John Maxey, Ellen May; Tom Kane and Jim Surkamp. Staff members present included Kirk Davis, Acting Director of Planning; Jennifer Snyder, Acting Zoning Administrator; Tom Hall, Planner; Jonathon Saunders, County Engineer and Shannon Phillips, Planning Clerk.

Mr. Maxey and Mr. Dailey arrived late.

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

1. Election of Officers. Mr. Reynolds asked for nominations for Planning Commission President. Mr. Sidor nominated Mr. Reynolds. Ms. May seconded the nomination. There were no other nominations for President.

Mr. Reynolds asked for nominations for Planning Commission Vice President. Mr. Surkamp nominated Mr. Dailey. Ms. May seconded the nomination. There were no other nominations for Vice President.

Mr. Reynolds asked for nominations for Planning Commission Secretary. Ms. May nominated Ms. Deming. Mr. Sidor seconded the nomination. There were no other nominations.

Mr. Sidor moved to accept the nominations by acclamation. Mr. Kane seconded the motion, which carried 7 for and 0 opposed.

2. Approval of Minutes. Mr. Davis requested an additional two weeks to review and correct the draft minutes from the December 9, 2008 Planning Commission meeting before the Planning Commission vote. Mr. Kane moved to postpone the approval of the December 9, 2008 draft Planning Commission Meeting minutes. Mr. Sidor seconded the motion, which carried 7 for and 0 opposed.
3. Citizen Communication. Ed Burns was present on behalf of the Citizens for a Better Government in Jefferson County. Mr. Burns read from a statement he provided (see attached) to the Planning Commission regarding Agenda Items #10a & #10c.
4. Requests for Postponement. John Kusner was present on behalf of Tall Timber Minor Subdivision with regard to Items #6 & #7, two variance requests. Mr. Kusner requested an indefinite postponement based on Staff's request for additional information.

Mr. Dailey arrived at 7:08 PM.

Mr. Kane moved to approve the request for postponement of Items #6 & #7 until such variances are reapplied for. Mr. Sidor seconded the motion, which carried 7 for, 0 opposed and 1 abstention (Mr. Dailey).

5. Request by Ken Lowe Management Company, on behalf of Kensington Townhome Subdivision, for a variance to reopen the subdivision and for an extension of the expiration period for the Community Impact Statement (CIS) from 24 months to 36 months (PC File #06-41). The property is located on the north side of Lowe Drive approximately 750 feet west of its intersection with Route 480 (Kearneysville Pike), adjacent to the Clarion Hotel & Conference Center. District: Shepherdstown; Map: 8; Parcel: 10.9. (Ordinance Section 6.3).

Dick Klein and Ryan Perks, with Alpha Associates, and Trip Lowe, with Ken Lowe Management Company, were present to answer Planning Commissioners' questions. Mr. Klein explained that, due to the "down-turn" in the economy, the project was not able to proceed as planned. The Community Impact Statement reached its expiration on January 9, 2008. Mr. Klein requested an extension of 36 months and informed the Planning Commission that a preliminary plat was close to being finished. Mr. Sidor asked Mr. Klein when the preliminary plat would be submitted. Mr. Klein stated that he anticipated submitting the preliminary plat by the end of February 2009, and the final plat by the end of summer 2009.

Mr. Hall presented his staff report. He informed the Planning Commission that a 12 month extension of the CIS would make the expiration date January 5, 2010, not January 9, 2010, as stated by the applicant. Mr. Hall explained there was no language within the Ordinance which provided a means for Staff to recommend approval of a request for variance for the current economic climate and deferred to the Planning Commission for its determination. Mr. Saunders stated the variance request was a planning issue and deferred to the County Planner for recommendation.

Mr. Reynolds opened the public hearing. There was no comment from the public. Mr. Reynolds closed the public hearing.

Mr. Dunleavy moved to reopen Planning Department File #06-41, Kensington Townhome Subdivision, and grant the variance to extend the Community Impact Statement expiration to January 5, 2010. Mr. Kane seconded the motion, which carried 8 for and 0 opposed.

6. Request by Nicholas Frobouck, on behalf of Tall Timber Minor Subdivision, for a variance to waive the Community Impact Statement requirement and to advance to final plat. The property is located to the east of Cattail Run Road, approximately 900 feet north of Route 9 (Charles Town Road). District: Charles Town; Map: 19; Parcel: 17.6. (Ordinance Section 7 and 8.1).

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This item was postponed under Item #4.

7. Request by Nicholas Frobouck, on behalf of Tall Timber Minor Subdivision, for a variance to waive the requirement to upgrade the 40' easement to county road standards. The property is located to the east of Cattail Run Road, approximately 900 feet north of Route 9 (Charles Town Road). District: Charles Town; Map: 19; Parcel: 17.6. (Ordinance Section 8.2)

This item was postponed under Item #4.

8. Director's Report. Mr. Davis updated the Planning Commission on the status of the search for a new Director. He stated the employment advertisements would be rerun until February 6, 2009. Mr. Davis stated the department was working on creating and documenting policies. These policies should be completed by the end of February 2009.

Mr. Davis explained that on January 8, 2009, the County Commission relayed to him there was a stay in place on the new Zoning Ordinance and that the County would be reverting back to the old Zoning Ordinance. As for the Subdivision Regulations, the new regulations would remain in effect. There was discussion on the options available to correct the discrepancies between the old Zoning Ordinance and the new Subdivision Regulations. James Casimiro, Assistant Prosecuting Attorney, explained three options available to the County: 1) to continue working with the new Subdivision Regulations, while not enforcing the sections which directly reference the new Zoning Ordinance; 2) to rescind the new Subdivision Regulations and revert back to the old Subdivision Ordinance; or 3) to create a combination of the old and the new regulations via an amendment process. It was agreed to use the next two weeks to review the issue.

Mr. Davis informed the Planning Commission that no discussion with regard to the Mannings incorporation proposal was permitted until the public hearings for the proposal began. The County Commission scheduled the first hearing for February 4, 2009, to be held at Blue Ridge Elementary School at 7:00 PM.

Mr. Davis presented the Planning Commission with a Memorandum from Mason Carter, Ordinance Compliance Officer, with regard to violations committed by Mission Ridge and Robert Sharp, individually. Mr. Carter's memo reported that Chuck Mazaris submitted a letter stating that he would not perform any more clearing until first receiving approval from the Planning Commission. It also stated that William H. Gordon Associates were preparing a red-line revision to the Mission Ridge final plat for submission. Mr. Carter's memo reported that he performed an inspection on the property in violation and Mr. Sharp had removed the cabin, but the deck still needed to be removed.

Mr. Maxey arrived at 7:32 PM.

9. President's Report. Mr. Reynolds brought to the attention of the Commission members the items he felt would be priorities for the Planning Commission's Annual Report to the County Commission: first, clarify the Ordinances; second, proceed with actual planning in the county; third, clarify the county legal counsel structure; and fourth, bring salary equity to employees working out of class. There was further discussion between the Commissioners about other projects that may be a priority for the County in the near future and that should be included in the Planning Commission's Annual Report to the County Commission.
10. Planning Commission Exchange.
 - a. Planning Commission study, report and comments on the incorporation of Mannings and its consistency with the Comprehensive Plan.

Mr. Surkamp recused himself from discussion on this Item. Mr. Maxey moved that the Planning Commission recommend to the County Commission that the County Commission request from the Planning Commission a report on the compatibility of the incorporation of Mannings with the Comprehensive Plan. Mr. Casimiro informed the Planning Commission that Chapter 8A does not require the Planning Commission be involved in the incorporation process. Mr. Maxey's motion died for lack of a second.

- b. Rules and procedures to be following during the period prior to the referendum on the new ordinance.

This Item was discussed under Item #8.

- c. Community outreach program to explain the new ordinance and its benefits.

Mr. Maxey requested that Staff put together a proposal, including a budget, of how they would handle a Q&A session with individual citizens of the public with regard to the new Zoning Ordinance. Mr. Sidor stated that Staff was already available for citizens' information gathering. Mr. Maxey asked Staff what they had prepared to help educate the public. Mr. Davis informed the Planning Commission that Staff would be working on a project that consisted of reviewing three separate approved projects under the old Zoning Ordinance and comparing those projects with the new Zoning Ordinance in order for the public to better understand the differences between the two Ordinances.

11. Planning Commission discussion, review and vote on 2009 Planning Commission meeting schedule. Mr. Reynolds proposed to cancel the December 22, 2009, Planning Commission meeting. Mr. Kane moved to accept the 2009 Planning Commission meeting schedule, excluding the December 22, 2009 meeting. Mr. Maxey seconded the motion, which carried 9 for and 0 opposed.

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12. Reports from Legal Counsel and legal advice to PC. Mr. Casimiro stated that, with regard to the previously discussed community outreach program, there should be a clear definition of the purpose of such a workshop.

Mr. Reynolds called a break at 8:15 PM to change the CD. Mr. Reynolds called the meeting back to order at 8:23 PM.

13. Consideration, discussion and vote on Request from the Office of Disciplinary Counsel for comment from the Planning Commission regarding the response dated December 1, 2008, by Michael D. Thompson, Jefferson County Prosecuting Attorney, to Complaint #08-01-455. Mr. Sidor questioned what "this" was referring to on page 2; the last paragraph; the first sentence of the draft response. Mr. Reynolds explained "this" referred to Mr. Thompson's response and should be amended to read so. Also, on page two of the draft response, under Legal Analysis and Explanation of Decision, the last sentence should be deleted. Mr. Surkamp abstained from voting on this Item. Mr. Sidor moved that the Planning Commission adopt the response to Mr. Thompson's response relative to Complaint #08-01-455 as amended. Mr. Kane seconded the motion, which carried 8 for, 0 opposed and 1 abstention (Mr. Surkamp).

14. Actionable Correspondence. None.

Mr. Sidor moved to adjourn the meeting at 8:29 PM. Ms. May seconded the motion, which carried 9 for and 0 opposed.

A detailed transcript of the meeting may be found on CDs #1 & #2. These minutes were prepared by Shannon Phillips.