

MINUTES  
JEFFERSON COUNTY PLANNING COMMISSION  
FEBRUARY 24, 2009

The Jefferson County Planning Commission met on Tuesday, February 24, 2009, with the following Commission members present: Robert Reynolds, President; Arnold Dailey, Vice President; Lynne Deming, Secretary; Edward Dunleavy; John Maxey and Jim Surkamp. Staff members present included Kirk Davis, Acting Director of Planning; Jennifer Snyder, Acting Zoning Administrator; Jonathon Saunders, Engineer; James Casimiro, Assistant Prosecuting Attorney and Shannon Phillips, Planning Clerk.

Mr. Sidor, Ms. May and Mr. Kane were absent with notification.

Mr. Reynolds called the meeting to order at 7:02 PM.

1. Approval of minutes.
  - a) February 3, 2009.

Mr. Dunleavy moved to approve the draft minutes from the February 3, 2009 Planning Commission meeting with the following corrections suggested by the Commission.

- 1) Page 1, Item #4, second paragraph, third sentence; change "*Dunleavy*" to "*Kane*."
- 2) Page 1, Item #4, second paragraph, third sentence; capitalize "*may*."
- 3) Page 1, Item #4, third paragraph, first sentence; remove "*stated was*."

Ms. Deming seconded the motion, which carried 6 for and 0 opposed.

- b) February 10, 2009.

It was the consensus of the Commission to continue the approval of the February 10, 2009 Planning Commission meeting draft minutes to the March 10, 2009 Planning Commission meeting.

2. Citizen Communications. Peter Chakmakian, Attorney, was present to address the Planning Commission on his concerns for the County to adopt a liberal granting of variances based on the economic downturn and the standstill in commercial and residential development. Mr. Chakmakian was of the opinion that the County should hold public hearings to amend the Ordinance for the purpose of allowing for extensions. Mr. Chakmakian also informed the Commission that he was in the process of drafting such an amendment and would be willing to share this draft with the Commission for their review.
3. Requests for postponement. None.
4. Final Plat Public Hearing for Howard N. Carper Minor Subdivision, Lots 1 & 2-Residue (PC File #09-01). The property is to consist of 1 single-family lot and 1 single-family

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residue lot on 50.54 acres. The property is located on the west side of Route 480 (Kearneysville Pike) approximately 0.234 miles north of 48/2 (Warm Springs Road). District: Shepherdstown; Map: 15; Parcel: 6.

Mr. Davis presented the staff report and recommended approval of the final plat. Mr. Saunders presented his staff report and recommended approval of the final plat. Jean Carper, owner, was present to answer the Planning Commissioners' questions. Mrs. Carper addressed the Planning Commission and stated that she was confused why her property had to be considered a subdivision if her purpose was not to create a community. Mr. Davis replied to Mrs. Carper that it was legal terminology for the process of dividing the land.

Mr. Maxey moved to approve the final plat for the Howard N. Carper Minor Subdivision, Lots 1 & 2-Residue (PC File #09-01). Mr. Surkamp seconded the motion, which carried 6 for and 0 opposed.

5. Request by SPARC, L.L.C. for a variance for a 12-month extension of time to bond and record the final plat for the SPARC Training Campus Subdivision (PC File #07-14). The property is located on the south side of County Route 13 (Summit Point Road) approximately 1,000 feet southwest of County Route 1/19 (Thomson Street). District: Kabletown; Map: 16; Parcel: 11. (Subdivision Ordinance, Section 8.1(d))

Mr. Davis presented his staff report and recommended granting the variance. Mr. Saunders deferred to Planning for recommendation. Kristen Ringstaff with William H. Gordon Associates was present to answer the Planning Commissioners' questions. Mr. Dunleavy asked if the file would have to be reopened if the variance was granted. Ms. Ringstaff stated the file would have to be reopened.

Mr. Dunleavy moved to reopen SPARC Training Campus Subdivision (PC File #07-14) and grant the variance for a 12 month extension for the time to bond and record final plat until February 20, 2010. Mr. Dailey seconded the motion, which carried 6 for and 0 opposed.

6. Request by Arcadia Development Company on behalf of Harvest Hills Subdivision (PC File #07-01) for a variance for a 12-month extension of time to bond and record the final plat. The property is located on the east side of Route 17 (Flowing Springs Road) on the south side of County Route 17/2 (Melvin Road) and adjacent to the Duffield's Train station. District: Shepherdstown; Map: 24; Parcel: 12. (Subdivision Ordinance, Section 8.1(d))

Mr. Davis presented his staff report and recommended granting the variance. Mr. Saunders deferred to Planning for recommendation. Mr. Maxey stated he was in the Planning Department and did review the Community Impact Statement (CIS) originally filed. Mr. Maxey expressed his concern that a 1993 Department of Highway traffic count was used even though the information may not be relevant in 2009. Mr. Davis replied to Mr. Maxey

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that a new CIS was required. Peter Chakmakain, Attorney, was present on behalf of the applicant to answer the Planning Commissioners' questions. Carla Coffey with Arcadia Development Company referenced, and handed to Mr. Maxey, a permit from the West Virginia Department of Highways (WVDOH) that was approved on November 6, 2007. Mr. Chakmakian concluded that it is more difficult with the present economic situation to process a letter of credit and that is why the extension is being requested.

Mr. Surkamp moved to grant the variance for a 12-month extension of time to bond and record the final plat. Ms. Deming seconded the motion. Mr. Dunleavy offered a friendly amendment to reopen the Harvest Hills Subdivision (PC File #07-01) and to grant the extension of time to bond and record final plat to February 25, 2010. Mr. Surkamp and Ms. Deming accepted the friendly amendment. Mr. Reynolds called the questions. The motion carried 6 for and 0 opposed.

7. Request by Peter Chakmakian on behalf of Daniels Forest LLLP for a variance for a stay or 12-month extension of the subdivision processing time. (PC File #02-01) The property is located on both the west and east side of Route 17 (Flowing Springs Road) at its intersection with Route 22 (Job Corp Road). District: Charles Town; Map: 3; Parcel: 9.2. (Subdivision Ordinance, Section 6.3)

Mr. Davis presented his staff report and recommended granting the variance. Mr. Saunders deferred to Planning for recommendation. Mr. Reynolds asked Mr. Davis if a stay of the subdivision processing time was something the Planning Commission could grant. Mr. Davis responded that the Planning Commission could not legally grant such a stay. Mr. Chakmakian was present on behalf of the applicant to answer the Planning Commissioners' questions. Mr. Chakmakian explained to the Commission that ten (10) days after submission of the project the Public Service Commission (PSC) of West Virginia gave a tentative approval. Mr. Maxey asked staff how many units have been approved in the same area since the Community Impact Statement was submitted in 2002. Mr. Davis informed Mr. Maxey this information would take research but could be provided.

Mr. Dunleavy moved to grant the variance for a 12-month extension of the subdivision process time to April 6, 2010. Ms. Deming seconded the motion. Mr. Reynolds called the question, which carried 6 for and 0 opposed.

8. Recommendation to the County Commission for a special election on the Zoning Ordinance.

Mr. Reynolds distributed a draft Recommendation for review by the Planning Commission members and gave an explanation of the document. Mr. Surkamp was of the opinion it was a good idea for the Planning Commission to submit to the County Commission such a recommendation as a reminder that the issue still needs to be addressed.

Mr. Maxey moved to adopt Recommendation #1: The Planning Commission recommends that the County Commission schedule a special selection for the plebiscite on the new zoning

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ordinance at the earliest possible time. Mr. Dunleavy seconded the motion. Ms. Deming requested time to review the document before voting on it.

Mr. Reynolds called a break at 7:45 PM in order for the Planning Commission to review the Draft Recommendation. The CD was also changed at this time. Mr. Reynolds called the meeting back to order at 7:51 PM.

Mr. Reynolds called the question, which carried 6 for and 0 opposed.

Mr. Dunleavy moved to adopt Recommendation #2: The Planning Commission recommends that the County Commission conduct a public hearing as soon as possible to receive citizen testimony on the timing of the plebiscite on the new zoning ordinance. Ms. Deming seconded the motion, which carried 6 for and 0 opposed.

Mr. Dunleavy moved to accept the Background and Summary of Deliberations. Mr. Maxey seconded the motion, which carried 6 for and 0 opposed.

9. Director's Report.

a) Potential Issues with the 2008 Subdivision Regulations

Mr. Davis distributed and gave an explanation to the Planning Commission that the Planning Department is currently comparing the Zoning Ordinance to the Subdivision Regulations and has compiled a preliminary list of potential issues. Mr. Davis also stated that Staff would also be providing suggested amendments for any potential issues found. Mr. Reynolds asked if there were any major conflicts. Mr. Davis stated there were no major conflicts.

Mr. Dunleavy asked if the Planning Commission would need to suggest amendments to the County Commission. Mr. Davis stated they would if the County Commission accepts the plebiscite. However, if the County Commission decided to wait until the next primary election it will be more difficult to amend the Zoning Ordinance.

b) Department policies

Mr. Davis distributed and gave an explanation of the Planning Department's newly drafted Customer Service Procedures to the Planning Commission and stated that all the processes would be finalized in the near future.

Mr. Davis informed the Planning Commission that at the February 26, 2009 County commission meeting he would be requesting that County Commission accept the resignation of Tom Hall, as well as the permanent appointment of Jennifer Snyder from Acting Zoning Administrator to Zoning Administrator. Mr. Davis stated he would also be making requests regarding open positions in need of filling and salary adjustments. Mr. Maxey asked if the Planning Department could run efficiently with a Director and one Planner. Mr. Davis referred to the staff flow chart that he distributed to explain the needs of the department as far as staffing is considered.

10. President's Report. None.

11. Planning Commission Exchange.

Mr. Maxey inquired as to why all of the Planning Commission meeting minutes were not posted on the County's website. Mr. Davis assured Mr. Maxey that it would be looked into and rectified.

Mr. Reynolds stated the Planning Commission has no authority to deny an applicant if they have provided a letter of approval of services. Mr. Dunleavy stated he had previously spoken with Mr. Casimiro and was informed the Planning Commission is obligated to grant at least one extension. Mr. Reynolds expressed a concern for the need of a meeting with the PSD to discuss the matter of approval letters versus their actual capability to provide the services. Fred Blackmere, citizen, stated he got a sense the Planning Commission was implying the PSD does not work with developers. Mr. Blackmere also stated the PSD considers customer counts already approved whenever considering future approvals. Mr. Surkamp asked if Flowing Springs had good public sewer since they have a huge underground system. Mr. Blackmere replied that plans for the Flowing Springs system have been delayed for five years. Mr. Reynolds asked Mr. Casimiro if it was stated in the Ordinance that the Planning Commission is to only require an applicant to provide a letter of approval from the PSD. Mr. Casimiro replied in the affirmative.

Mr. Maxey mentioned the upcoming 90 day deadline. Mr. Casimiro stated he has plans to speak with Mr. Davis to see what progress has been made with regard to any discussions on the matter. Mr. Maxey asked Mr. Casimiro if he was due to go to court. Mr. Casimiro stated no hearing has been set. Mr. Maxey asked Mr. Casimiro if he had been a part of recent discussions. Mr. Casimiro stated he was involved in earlier conversations however Mr. Davis has had more interaction with the developers. Mr. Davis stated that he has had no further discussion since the original meeting with the attorneys and Carla Coffey.

Mr. Davis informed the Planning Commission he has received two or more phone calls from citizens offering their assistance to the Planning & Zoning Department with regard to the Zoning Ordinance. .

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

13. Actionable Correspondence. None

Mr. Dunleavy moved to adjourn at 8:35 PM. Mr. Maxey seconded the motion, which carried 6 for and 0 opposed. A detailed transcript of the meeting may be found on CDs #10 & #11. These minutes were prepared by Shannon Phillips.