

MINUTES
JEFFERSON COUNTY PLANNING COMMISSION
May 12, 2009

The Jefferson County Planning Commission met on Tuesday, May 12, 2009, with the following Commission members present: Robert Reynolds, President; Ed Dunleavy; John Maxey; Lynne Deming and Ellen May. Staff members present included Kirk Davis, Acting Director of Planning; Jennifer Snyder, Acting Zoning Administrator; Jonathan Saunders, Engineer and Shannon Phillips, Planning Clerk.

Mr. Sidor was absent with notification.

Mr. Reynolds called the meeting to order at 7:04PM.

1. Approval of minutes.

Mr. Dunleavy moved to approve the minutes from the April 28, 2009 Planning Commission meeting. Ms. May seconded the motion, which carried 5 for and 0 opposed.

2. Citizen Communications. None.

Jim Surkamp arrived at 7:06 PM.

3. Requests for postponement. None.

4. Site Plan Approval and Issuance of the Improvement Location Permit (ILP) for the Bloomery - Verizon Telecommunications Facility (PC File#S08-05). The property is located approximately 250 feet northeast of the intersection of Charles Town Road and Bloomery Road, within the common ground of Falcon Ridge subdivision. District: Charles Town, Map: 19A, Parcel: 18. The communications facility is to consist of an Equipment Shelter, Ice Bridge with a GPS Antenna, 40' x 45' Fenced Compound Area, CSC/Quazite Box, Utility Backboard, & 12 Antennas placed in a 120' Concrete Silo on 21.52 acres. Stephen Mitchell, Wolverine Investments, LLC – Zachary Homes, LLC are the owners/developers.

Stephanie Petway with Verizon was present to answer Planning Commissioners' questions.

Mr. Davis presented the Planner staff report and recommended approval of the site plan and the issuance of the ILP.

Mr. Saunders presented his staff report and recommended approval of the site plan and issuance of the ILP.

Arnold Dailey arrived at 7:10 PM.

There was discussion with regard to the white pines that were proposed to be placed around the site and whether or not they would survive the local wildlife.

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Mr. Dunleavy moved to approve the site plan and issuance of the ILP for the Bloomery - Verizon Telecommunications Facility (PC File#S08-05) with the condition that a minimum of six foot white pines be placed around the site. Mr. Maxey seconded the motion, which carried 7 for and 0 opposed.

5. Request by Jane Stone, Owner by William H. Gordon Associates, Inc. for a variance to extend the final plat process deadline from May 16, 2009, to May 16, 2010, for the Stonecrest Subdivision (PC File #06-35). The property is located on the east side of Rt. 17 (Flowing Springs Road) just south of Rt. 22 (Job Corp Road). District: Charles Town; Map: 3; Parcel: 9. (Subdivision Ordinance, Section 6.3).

Kristin Ringstaff with William H. Gordon Associates was present on behalf of the applicant to answer Planning Commissioners' questions.

Mr. Davis presented the Planner staff report and recommended granting the variance.

Mr. Saunders deferred to the Planner for recommendation.

Mr. Surkamp moved to grant the variance with an extension until December 31, 2009. Ms. May seconded the motion. Further discussion ensued. Mr. Reynolds recalled Mr. Surkamp's motion, which failed 1 for and 6 opposed (Ms. May, Mr. Dailey, Mr. Reynolds, Mr. Maxey, Ms. Deming and Mr. Dunleavy)

Mr. Maxey moved to deny the variance to extend the final plat process deadline for the Stonecrest Subdivision. Mr. Dunleavy seconded the motion. There was further discussion. Mr. Reynolds recalled Mr. Maxey's motion, which carried 4 for and 3 opposed. (Mr. Dailey, Mr. Reynolds and Ms. Deming)

6. Request by Mary. J. Stotler for approval of a minor plat change to vacate a portion of an existing easement located within the Hezekiah C. Marshall Minor Subdivision (PC File #05-25). The property is located on the east side of Route 480 (Kearneysville Pike) at 0.639 miles north of Route 48/2 (Warm Springs Road) – Mile Post 1.759. District: Shepherdstown; Map: 16; Parcel: 2.3. (Subdivision Regulation 24.202.C)

The applicant was present to answer Planning Commissioners' questions.

Mr. Davis presented the Planner staff report and recommended approval of the minor plat change.

Mr. Saunders deferred to the Planner for recommendation.

Mr. Maxey moved to approve the minor plat change to vacate a portion of an existing easement located within the Hezekiah C. Marshall Minor Subdivision (PC File #05-25). Ms. May seconded the motion, which carried 7 for and 0 opposed.

7. Consideration and approval of Briefing Paper for forthcoming Joint Workshop Meeting with the County Commission.

There was discussion with regard to the Briefing Paper and its attachments.

Ms. May moved to adopt the Briefing Paper and submit it to the County Commission with corrections as discussed. Mr. Maxey seconded the motion which carried 6 for and 1 opposed. (Ms. Deming)

8. Director's Report.

Mr. Davis reminded the Commission that Jennifer Brockman would be arriving to start her position as Director on May 26, 2009, and will be attending the Planning Commission meeting on that same date.

Mr. Davis informed the Commission that the Planning & Zoning Departments will begin moving to their new location on June 1, 2009.

9. President's Report. None.

10. Planning Commission Exchange.

Ms. May presented a correspondence that she forwarded to the County Commission as a private citizen with regard to vacant positions within the Planning & Zoning Departments.

Mr. Reynolds called a break at 8:03 PM to change the CD. Mr. Reynolds called the meeting back to order at 8:10 PM.

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

James Casimiro, Assistant Prosecuting Attorney, presented the Commission with a written summary of the recent court decision in the Henry case.

The Planning Commission was interested in knowing the comparison of the facts of the Henry case compared to the Far Away Farm, LLC case. Mr. Casimiro stated that he would prepare a comparison of fact patterns from the two cases in order to give the Commission a better understanding.

Mr. Dunleavy, Ms. Deming and Mr. Surkamp recused themselves and left the room at 8:21 PM.

Mr. Casimiro presented the Planning Commission with the written Decision Approving Community Impact Statement with Conditions for Far Away Farm, LLC and gave a brief overview.

Mr. Maxey moved that the Planning Commission affirm the written Decision Approving Community Impact Statement with Conditions for Far Away Farm, LLC as prepared by Mr. Casimiro and provide a copy to the applicant. Ms. May seconded the motion, which carried 4 for and 0 opposed.

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Mr. Reynolds and Mr. Casimiro signed the document.

Mr. Casimiro informed the Planning Commission that he would present the bylaws amendment to the County Commission on Thursday, May 14, 2009, for approval.

Ms. Deming returned to the room at 8:28 PM.

12. Actionable Correspondence. None

13. Executive Session to discuss litigation related to Decision #33438 of the West Virginia Supreme Court of Appeals, Far Away Farm.

Ms. May moved to go into executive session at 9:46 PM. Mr. Dailey seconded the motion, which carried 5 for and 0 opposed.

Mr. Dailey moved to return to Public Hearing at 9:46 PM. Mr. Maxey seconded the motion, which carried 5 for and 0 opposed.

Mr. Maxey moved that the Planning Commission instruct our attorney to file legal action in the Federal District Court regarding the Supreme Court of West Virginia's decision in the Far Away Farm LLC case. Ms. May seconded the motion.

Ms. Deming stated that she would not be able to support this motion without further information and the legal process involved as well as the legal costs.

Mr. Reynolds recalled Mr. Maxey's motion, which failed 3 for and 2 opposed. (Ms. Deming and Mr. Dailey) With seven members in attendance of the meeting, a vote of four in favor would be required to pass.

Mr. Reynolds stated that this item will carry over to the next Planning Commission meeting.

Ms. May moved to adjourn at 8:50 PM. Ms. Deming seconded the motion, which carried 5 for and 0 opposed.

A detailed transcript of the meeting may be found on CDs #26 and #27. These minutes were prepared by Shannon Phillips.