

MINUTES
JEFFERSON COUNTY PLANNING COMMISSION
JUNE 9, 2009

The Jefferson County Planning Commission met on Tuesday, June 9, 2009, with the following Commission members present: Arnold Dailey, Vice President; Lynne Deming, Secretary; Robert Reynolds, Ed Dunleavy; Ellen May, John Maxey and John Sidor. Staff members present included Jennifer Brockman, Director of Planning and Zoning; Jennifer Snyder, Acting Zoning Administrator; Kirk Davis, Acting Planner; Jennilee Hartman, Planning Clerk and Shannon Phillips, Planning Clerk.

Jim Surkamp and Thomas Trumble were absent with notification.

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

Mr. Reynolds informed the Planning Commission that the newest Planning Commission member, Thomas Trumble will not be in attendance due to a prior obligation as the President Shepherdstown Rotary Club but will be in attendance for the next meeting.

Mr. Dailey informed the Commission that Mr. Reynolds has stepped down as the Planning Commission President.

1. Election of Officers.

Mr. Dailey asked for nominations for Planning Commission President. Ms. Deming nominated Mr. Dailey. There were no other nominations for President. Mr. Dailey was voted in as Planning Commission President with a unanimous vote.

Mr. Dailey asked for nominations for Planning Commission Vice-President. Mr. Dunleavy nominated Mr. Reynolds. Mr. Dailey nominated Ms. Deming. There were no other nominations for Vice-President. Mr. Reynolds was voted in as Planning Commission Vice-President with a vote of 4 to 3.

2. Approval of minutes.

Ms. May abstained from voting because she was not present at the meeting.

Mr. Sidor moved to approve the May 26, 2009 minutes with the following corrections as recommended by the board:

- a. Page two, first paragraph, next to last sentence, change "*agreed*" to "*agreeable*";
- b. Page three, fourth paragraph, change "*concerns regarding the decreasing of current property values*" to "*concern regarding decreasing property values*";
- c. Page three, sixth paragraph, first sentence, change "*moves*" to "*moved*"; and
- d. Page three, sixth paragraph, second sentence, change "*Ms. Surkamp*" to "*Mr. Surkamp*" and "*amended*" to "*amendment*".

MINUTES
JEFFERSON COUNTY PLANNING COMMISSION
JUNE 9, 2009
PAGE 2 of 2

Mr. Reynolds seconded the motion which carried 6 for, 0 opposed and 1 abstention (Ms. May).

3. Citizen Communications. None.
4. Requests for postponement. None.
5. Request by William H. Gordon Associates, Inc. on behalf of Jane Stone, Owner, a variance to extend the final plat process deadline from May 16, 2009, to February 1, 2010, and to reopen the file 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).

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

Ms. Hartman read the following recommendation from her staff report.

“Since the applicant has already received an extension of the Conditional Use Permit, the BZA may not grant any additional extensions. If the construction of this development has not commenced by February 1, 2010, the Conditional Use Permit will expire. Therefore, the applicant must record the final plat in a timely manner to meet the requested expiration date. Staff recommends granting the extension of time to the applicant for the purpose of securing public waste water treatment services, revising the preliminary plat if necessary, to sectionalize the final plat and proceeding to the final plat public hearing”.

Mr. Saunders deferred to the Planner for recommendation.

There was discussion with regard to the process and timeline of project submissions and expirations. Ms. Hartman stated the project had already expired and part of the variance request would be to reopen the file.

Mr. Dailey opened the public hearing. Pat Masters, resident of Breckenridge, questioned whether there would be additional opportunities to offer public comment and have it be considered for this project. Ms. Hartman informed Mr. Masters that the public comment period was open during the Conditional Use Permit process. However, if the variance is denied and the project is resubmitted as a new project there would be an opportunity for public comment to be considered. The public hearing was closed.

There was discussion with regard to water and sewer service to the subdivision.

Mr. Reynolds moved to deny the variance request by William H. Gordon Associates, Inc. on behalf of Jane Stone, Owner, to extend the final plat process deadline from May 16, 2009, to

MINUTES
JEFFERSON COUNTY PLANNING COMMISSION
JUNE 9, 2009
PAGE 3 of 3

February 1, 2010, and to reopen the file for the Stonecrest Subdivision (PC File #06-35). Mr. Dunleavy seconded the motion, which carried 5 in favor and 2 opposed (Mr. Dailey and Ms. Deming).

6. Request by James G. & Barbara S. Gibson, owner/developer for a variance to extend the time within which a final plat hearing must be held for the Allstadt's Corner Subdivision (PC File #07-10). The applicant is requesting an extension of time from June 9, 2009, to August 14, 2009. The property is located on the south side of Route 340 (William L. Wilson Freeway); the east side of Route 27 (Millville Road) and on the north side of Route 27/2 (Allstadt's Hill Road).

Annette van Hilst with Dewberry & Davis was present on behalf of the applicant to answer Planning Commissioners' questions.

Mr. Maxey questioned whether the applicant had submitted a waiver of the sixty day provision to the Planning Department. Ms. Van Hilst stated the applicant was prepared to submit such a waiver in writing.

Ms. Hartman read the following recommendation from her staff report:

"At the May 26, 2009 Planning Commission meeting it appeared the Commission was amiable to this request to extend the CIS deadline, provided the applicant extend the 60-day provision with regard to the final plat. Staff recommends granting the extension contingent upon the applicant providing said extension".

Mr. Saunders deferred to the Planner for recommendation.

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

Mr. Dunleavy moved to grant the variance request by James G. & Barbara S. Gibson, owner/developer for a variance to extend the time within which a final plat hearing must be held for the Allstadt's Corner Subdivision (PC File #07-10) from June 9, 2009, to August 14, 2009. Mr. Maxey seconded the motion, which carried 7 in favor and 0 opposed.

7. Discussion and action by the Planning Commission to support the Flowing Springs Wastewater Treatment Plant.

Joe Hankins with the Public Service District gave a statement to the Commission and asked for an expression of support for the Flowing Springs Wastewater Treatment Plant project in the form of a letter.

A draft letter of support was provided by the Public Service District for discussion by the Commission. Discussion ensued.

Mr. Maxey moved that the Planning Commission direct staff to rewrite the draft letter of support, with Mr. Reynolds assistance to include his expressed concerns, and present it to the Public Service District. Ms. Deming offered a friendly amendment to include Mr. Dunleavy's expressed concerns regarding removing the sentence that reads, "Many people, including the Planning Commission, have made growth and business decisions based upon the provision of this high quality wastewater service in the Flowing Springs Watershed by the District." and to be sure the letter is not too specific in supporting the location of lines but only the facility itself. The friendly amendment was accepted. Ms. May seconded the motion, which carried 7 in favor and 0 opposed.

Mr. Dailey called a break at 8:15 PM in order to change the CD. Mr. Dailey called the meeting back to order at 8:20 PM.

8. Director's Report.

Ms. Brockman informed the Planning Commission that she would be attending a seminar in Charleston, WV on state and local law; she is still in discussions with the Engineering Department with regard to a fee schedule and the joint workshop with the County Commission is schedule for July 6, 2009, at 7:00 PM.

It was the consensus of the Planning Commission and Ms. Brockman to hold a special meeting of the Planning Commission on June 30, 2009, at 6:30 PM, in order to prepare an agenda for the joint workshop with the County Commission scheduled for July 6, 2009.

9. President's Report. None.

10. Planning Commission Exchange.

Ms. Brockman was asked if the Zoning Administrator and Planner positions were being advertised yet. Ms. Brockman stated that staff is still working on the advertisements.

Mr. Sidor expressed his appreciation to Mr. Reynolds for his service as Planning Commission President.

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

- a. Correspondence from James Casimiro regarding the Urban Growth Boundary.
- b. Correspondence from James Casimiro regarding the Henry decision and Far Away Farms decision.

Mr. Casimiro clarified the requirements for reconsidering a variance request.

MINUTES
JEFFERSON COUNTY PLANNING COMMISSION
JUNE 9, 2009
PAGE 5 of 5

Mr. Casimiro gave an overview of his assessment of the Henry and Far Away Farm court opinions. Discussion ensued.

Mr. Casimiro stated that he reviewed new legislation; WV Code 8a and amendments regarding certified letters; the petition process; a correspondence from Kirk Davis and the Urban Growth Boundary time-line provided by staff. Discussion ensued.

12. Actionable Correspondence. None.

13. Consideration of litigation in Federal Court related to Decision #33438 of the West Virginia Supreme Court of Appeals, Far Away Farm.

Mr. Dunleavy recused himself and left the room at 8:55 PM.

Mr. Reynolds gave a summary of the Planning Commission situation and moved to direct Robert Bastress, Attorney to proceed on behalf of the Planning Commission in Federal Court and to file an appeal. Ms. May seconded the motion. Discussion ensued. The motion carried 4 in favor and 2 opposed (Mr. Dailey and Ms. Deming)

Ms. Deming moved to adjourn the meeting at 9:06 PM. Ms. May seconded the motion, which carried unanimously. A detailed transcript of the meeting may be found on CDs #32 and #33. These minutes were prepared by Shannon Phillips.