

MINUTES
JEFFERSON COUNTY PLANNING COMMISSION
DECEMBER 9, 2008

The Jefferson County Planning Commission met on Tuesday, December 9, 2008, with the following Commission members present: Robert Reynolds, President; Arnold Daily, Vice President; Jim Surkamp; John Maxey; Tom Kane and John Sidor. Staff members present included Kirk Davis, Acting Director of Planning; Tom Hall, Planner; Jennifer Snyder, Acting Zoning Administrator; Jonathon Saunders, County Engineer and Rebecca Burns, Administrative Assistant.

Lynne Deming, Ellen May and Ed Dunleavy were absent with notification.

Mr. Reynolds called the meeting to order at 7:00 PM.

1. Approval of the minutes. Mr. Sidor moved to approve the minutes from the November 25, 2008 Planning Commission meeting as drafted. Mr. Dailey seconded the motion, which carried 5 for and 0 opposed.

Mr. Kane arrived at 7:02 PM.

2. Citizen Communication. Mr. Reynolds asked if any members of the public wished to speak. There were none.
3. Postponements. There were no requests for postponement.
4. Final Plat Public Hearing for Harry and Tina Martin Minor Subdivision, Lots 1 & 2-Residue (PC File #08-26). The property is to consist of 1 single-family lot and one residue lot on 6.011 acres. The property is located north of Engle Switch Road, south of Best Road and west of Bakerton Road. District: Harpers Ferry; Map: 3; Parcel: 9.1. Mike Shepp with Dewberry was present to answer Planning Commissioners' questions. Mr. Hall presented his staff report to the Planning Commission and recommended approval of the final plat with modification to the front setback along WV CR 28/2 (Best Road) to be measured from the southern edge of the road improvement dedication easement. Mr. Saunders presented the Engineering report and also recommended approval. Mr. Reynolds opened the public hearing. There were no comments from the public. The public hearing was closed. Mr. Shepp agreed to adjust the front setback as recommended by Mr. Hall. Mr. Maxey moved to approve the final plat. Mr. Kane seconded the motion, which carried 6 for and 0 opposed.
5. Final Plat Public Hearing for the Bowman Minor Subdivision, Lots 1, 2 & 3-Residue (PC File #08-27). The property is to consist of 2 single-family lots and one residue lot on 10.0 acres. The property is located on the east side of South Childs Road, approximately 1 mile south of Route 51 (Middleway Pike). District: Middleway; Map: 21; Parcel: 5.21. John Kusner was present to answer Planning Commissioners' questions. Mr. Hall presented his staff report to the Planning Commission and recommended approval of the final plat. Mr. Saunders presented the Engineering report and also recommended

approval. Mr. Reynolds opened the public hearing. There were no comments from the public. The public hearing was closed. Mr. Sidor moved to approve the final plat. Mr. Kane seconded the motion, which carried 6 for and 0 opposed.

6. Request by Peter Corum, on behalf of Twin Oaks Subdivision, LLC, for a variance for a one year extension for bonding and recording Town Run Commons (PC File #06-33). The property is located on Route 480 (Kearneysville Pike), adjacent to Morgan's Grove Park. District: Shepherdstown; Map: 13; Parcels: 26.1, 26.2, 26.3 and 26.4. Peter Corum was present to answer Planning Commissioners' questions. Mr. Corum stated, due to the liquidity crunch, banks have stopped development loans as a course of policy and he has been unable to secure a loan at this time. He is in the process of pursuing other alternatives; one of which is with the Federal Home Loan Bank of Pittsburgh, due to the project being half affordable work force housing; and, the other being with the West Virginia Housing Development Fund (WVHDF). Stephen Bailey, Director of WVHDF, stated all programs are still suspended and encouraged Mr. Corum to seek a minimum of a two year extension. Mr. Kane moved to grant the variance for a one year time extension until December 9, 2009, for bonding and recording of Town Run Commons. Mr. Dailey seconded the motion, which carried 4 for and 2 opposed (Mr. Maxey and Mr. Surkamp).
7. Planning Commission recommendation to the County Commission to adopt new fees in accordance with the newly enacted Zoning Ordinance and Subdivision and Land Development Regulations. The Planning Commissioners were provided an amended draft copy of the proposed fee schedule. Ms. Snyder explained the changes in the fee schedule. Mr. Kane moved to recommend the attached schedule of fees to the County Commission at the earliest possible time for approval, with the condition that these fees be reviewed at least on an annual basis. Mr. Sidor seconded the motion, which carried 6 for and 0 opposed.
8. Motion to retain counsel to represent the Jefferson County Planning Commission in Civil Action 08-C-439 regarding the new zoning ordinance. Mr. Reynolds stated Mr. Davis had to excuse himself earlier in the Planning Commission meeting to attend another meeting but he should be back soon. Mr. Casimiro stated the matter was continued, based on an agreement between all parties, until the new judges assign the case. There was a mutual agreement between the parties to work on a resolution of the matter and suspend legal action for 90 (ninety) days.

Mr. Davis returned to the room at 7:53 p.m.

Mr. Davis and Mr. Casimiro did sit down with the parties and address changes in the Zoning Ordinance which might resolve the lawsuit. Mr. Casimiro stated he would keep the Planning Commission apprised of any legal and procedural aspects that arise from the case; and Mr. Davis will keep the Commission apprised of any administrative matters.

Mr. Kane mentioned for the record that the Planning Commission was named in the lawsuit as a body and as individuals. He questioned if Mr. Casimiro was their legal representative as individuals. Mr. Casimiro stated the Planning Commission was named individually as members in their official capacity, and that would be how they would be represented.

Mr. Reynolds expressed to the Commission that he desired to discuss the President's Report item Consideration and Employment of Outside Counsel during the current topic. There were no objections. Mr. Reynolds stated that after discussion with Mr. Davis he spoke with David Hammer about representing the PC in this matter. Mr. Hammer is willing and able to represent the Planning Commission if the matter is not resolved. Mr. Davis did say Mr. Hammer had concerns as to whether or not AIG would cover his legal fees.

9. Director's Report.

- a) Update on next PC/PSD Joint Workshop tentatively scheduled for Wednesday, February 11, 2009.

Mr. Hall stated the new suggested dates for a meeting with the PSD were February 2, 3 and 17, 2009. The Commission agreed by consensus that February 3, 2009 was an acceptable date that would allow the staff time to work with the agencies and come back before the Planning Commission with an agenda for the meeting.

- b) Preliminary workflow procedures for the newly enacted Subdivision and Land Development Regulations.

Ms. Snyder presented the Planning Commission with a copy of the Single Lot Subdivision with Pre-proposal Conference Procedures and the first Conference Memo/Minor Subdivision determination for Arnold Dailey. Mr. Davis outlined the process and addressed Commissioners' questions.

- c) Preliminary workflow procedures for the newly enacted Zoning Ordinance.

Ms. Snyder stated she is working on these procedures and hopes to have something to the Commission in the near future.

10. President's Report.

- a. Consideration of employment of outside counsel. This matter was partially discussed under Item #8.

Mr. Reynolds stated there was the outlying issue of Far Away Farms and he hoped to have a discussion this week with Bob Bastress from the West Virginia University Law School. Mr. Bastress agreed to have the discussion once he received clearance that there

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is no conflict of interest. The two questions being posed to him are: Does the case violate our civil liberties? and Do we have recourse?

b. Consideration of response to the Office of Disciplinary Counsel.

Mr. Casimiro excused himself from the meeting room and cautioned the Planning Commission that they may want to have the discussion in executive session.

Mr. Reynolds stated the Office of Disciplinary Counsel had invited the Commission's response within 10 days. Mr. Reynolds stated he drafted a response and would be calling a special meeting for December 16, 2008, to discuss the matter further.

Mr. Kane moved to request an extension through the Office of Disciplinary Counsel for the State of WV for a thirty-day extension and to advise them a special meeting had been set for December 16, 2008, to review the issue and that the Planning Commission would have a response to them no later than December 22, 2008. The motion passed 6 for and 0 opposed.

11. Planning Commission Exchange. Mr. Sidor asked the status of the search for a new Director. Mr. Davis stated there was a narrowing to nine applicants, and that it would need to be further narrowed to three to five individuals for interviewing. Mr. Sidor suggested narrowing the list down to three individuals. Mr. Reynolds stated there were some very qualified individuals to be considered for the position. Mr. Surkamp noted the whole search committee will change with the seating of the new County Commissioners.

Mr. Maxey asked for Mr. Hall's comments on the proposal from the Fresh Water Institute to receive an EPA grant for assistance in funding the Mountain Communities Planning Study. Mr. Hall stated Joe Hankins with the Fresh Water Institute applied for funding as part of the Chesapeake Bay Program for the study. A copy of this application was forwarded to the Planning Department for review.

Mr. Davis presented a memo from Mason Carter, Ordinance Compliance Officer, stating the property owned by Rob Sharp was in the process of dismantling the cabin. The Mission Ridge property was negotiating the green space area in an effort to become compliant.

12. Reports from Legal Counsel and legal advice to PC. This matter was addressed under Item #8.

13. Actionable Correspondence. None.

Mr. Surkamp moved to adjourn the meeting at 9:17 PM. Mr. Kane seconded the motion, which carried unanimously. A detailed transcript of the meeting may be found on CDs #131 and #132. These minutes were prepared by Rebecca Burns.