

Subdivision Review Committee

October 18, 2013, Meeting Summary

Attendees: Mike Thompson, Steve Thomas, Mike Wiley, Jason Gerhart, Andy DiMagno, Dirk Stansbury

Summary:

Mike Thompson conducted introductions and outlined the purpose of the group, which is determine where there are concerns with the current 2009 Subdivision Regulations and then to determine what the group would like to see done. The primary task for the first meeting is to start to develop a priority list as to what needs to be tackled first. Once we get a list started, staff will meet with Norwood to determine who has the ability to make the changes as some of them may require a change to the state law. If it is determined to require state action we will try to work with the Council to get the items before the legislature.

Mike and Steve have each developed a list of items that they feel needed to be examined. Copies of their lists are attached to this summary.

Two high priorities that Mike noted are sidewalks and the public hearing process as these are two items the planning commission feels need to be examined and determined if something can be done that would reduce the number of waivers or exceptions requested and when is the best time to receive public input on projects. The group discussed ideas of easements for sidewalks in the future if warranted and the placement of walks or easement in the right-of-way. Suggestion was made to look into how Jefferson County and others handle the public hearing process.

In discussing the waiver or variances, staff expressed the desire to try to get all waiver requests in with the initial submission as at some point if there are a number of waiver requests, is the project really trying to comply with the regulations. Dirk suggested the possibly of having two processes for dealing with waivers, which may also impact the public hearing process. One, if a waiver only impacts properties internal to the development, they could be approved by staff without a public hearing, or two, if the request is located in a way that it could impact properties outside of the proposed development, they would go through the public hearing process before the planning commission.

Another point of discussion, and one staff has discussed and would like to try to accomplish is having a separate site plan process for projects that are proposed for development on already platted lots. Presently, all site plans go through the subdivision process of sketch, preliminary plan, and then final plat. Sometimes the final plats that are approved are not recorded as the property is already on a platted lot so it is not necessary. The idea would be that projects on platted lots would go through a sketch plan review and then a final site plan review. This process would still allow for a public hearing at the sketch or final site plan if necessary.

Recording time for plats seems to be excessive to staff. Why would a person have a plat approved if they do not intend to proceed for five years? Concern is about possible changes in the regulations in the intervening time.

The process for Preliminary/Final Plats was another discussion point. Ideas like establishing addition criteria to set forth what the process can be used for, and maybe establishing a limit to the number of lots that can be created through this process were discussed. One thought was a possible tie to stormwater management regulations.

A discussion was started on the possibility of allowing Minor Subdivision plats to create lots other than "Family Transfers". There clearly were abuses in the past, but it would seem reasonable to allow minor plats to create a limited number of lots without going through the full current process. This would require establishing regulations and requirements, but seems like something that is worth looking into. As an example, many counties in Maryland allowed up to five lots to be created through the minor process and the State of Maryland has recently defined a minor subdivision to be up to seven lots. A date would have to be established in order that a property owner could not fill multiple minor properties on a single parcel.

A question was raised in regard to the taxing of open space within developments. There have been discussions in Jefferson County about not taxing these areas. Staff pointed out that they feel a change needs to be made on plats the clearly label this sites as "not for development" as persons have purchased these areas at tax sales anticipating that they can be developed at some point for residential or commercial uses.

Staff stated they thought some changes needed to be made in reference to Homeowners Associations. When they are turned over from the developer to the residents is one item to be addressed at some point. In addition, staff pointed out that they have been faced with multiple HOAs dealing with or not road maintenance were the traffic from one development uses the roads in another, but there is no requirement for them to assist in the road maintenance costs.

A point was made to look at consistency. For example; section 506 (d) (page 5-10), speaks to 3:1 slopes and Appendix A indicate 2:1 are acceptable.

Suggestion was made to look at some of the requirements for plats to see if they are being required at the right time. For instance: in 402.2 (page 4-4) it states that certifications are required, but in reality some felt that was not needed as part of the preliminary, but must be on the record plat. (Certification that property corners have been set)

Another discussion point was the lack of definitions. There are road classifications stated in the ordinance, but not definitions as to what makes a road an arterial. Also, should match up with WV DOH criteria. This impacts what setbacks need to be applied to a project.

Look into clarifying sections like how setbacks are to be measured, from right-of-way or centerline of a road this ties in with DOH requirements and Comp Plan designations for roads. A discussion of using ADT numbers to classify roads in the county was also held. The mandatory 25 foot setback requirement for DOH roads was stated to present an issue. Some of the

discussion focused on instead of a mandatory requirement, maybe a process could be established that in some instances "whichever is greater" could be established and this might help to eliminate confusion.

Dirk brought up the issue of cul-de-sac size. Plate 11 in Appendix A. Seventy (70) feet has really not been seen.

Andy DiMagno brought up the issue of setbacks from water courses as there are a couple of different ones mentioned in different sections of the regulations, which Steve indicated he has found as well. Steve mentioned a similar issue with parking lot requirement dimensions and the fact they are located in the same section of the ordinance.

Possible Discussion Topics

1. Process---Public Hearings 1 or 2
2. Process--- to allow final plats to be considered a the same meeting as preliminary plats
3. Fee Schedule---sketch plans, other items
4. Amend Section 403 or add language to find a way to get all projects under the same regulations--2009 Regulations vs. 1975, 2004 and 2009
5. Minor Subdivisions--- possibly developing a minor subdivision process that would create lots--- Have a maximum number established (5-7)
6. Preliminary/Final plat process---develop criteria for when it can be use, have some now, but do we need to clarify more
7. Is there is a need for a sit down with the DOH? Issues and what county is trying to do.
8. Covenants and HOA Responsibilities---need to clarify who is responsible for what in regard to subdivisions---put more information into the regulations giving more details as what is required in the covenants to clarify what HOA is responsible for in regard to roads and swm.
9. Add requirements as to when developers are to turn things over to the HOA
10. Process for doing sire plans (LDU) that are on existing parcels and platted lots where no subdivision is involved
11. Process to require HOA in new section or HOA in adjoining subdivision to require them to participate in maintenance of roads that they are using in the other development.
12. Change title of document to Berkeley County Development Regulations as there are more than just subdivision regulations in the document.
13. Look into definitions
14. Clarify when submissions are considered official
15. Electronic submissions
16. Section 305.3---preliminary plan approvals---vary by the size of the project---extensions can be granted by staff and the planning commission, but at some point need to comply with all regulations.
17. Plan Changes---need to clarify requirements, what need to look at and when and what the process should be.
18. Requirements in Article 4 for all types of plans---are they appropriate.
19. Consistency on how refer to items---sketch plan/plat; preliminary plat/plan; final plat/plan.
20. Move information on 2nd homes to a better place (5.2) to make it easier for people to find.
21. Clarify when a Developers Agreement is needed and look at what is required to be in it.
22. Look at building setbacks (503, Tables 5-1 and 5-2) and elsewhere in regulations.
23. Section 704, connections between subdivisions, but also a way to handle road maintenance by all users.
24. Common Areas and SWM Areas need to be clearly labels as "not building lots" on the plat.
25. Parking criteria---when there is a change from one commercial use to another way to verify enough parking.
26. Look at overall organization of regulations.
27. Spell out waiver request process and when it should be done---sketch, preliminary or before.
28. Is there a need to clarify Section 1107---open space, 25% of total acreage of development or lots
29. Section 1102 (5) ---Does this match with SWM and NPDES regulations?
30. Sidewalks

Steve Thomas

Subject: Subdivision Changes
Status: Not Started
Percent Complete: 0%
Total Work: 0 hours
Actual Work: 0 hours
Owner: Steve Thomas

Potential Subdivision Ordinance changes:

- Potentially have DOH determine whether or not traffic impact study is needed for study
- Parking provisions – too high?
- Section for Site Plans and provisions
- Process for subdivisions not on State roads
- Setbacks – for all types of roads and for interior (side and rear) for all lots
- Differentiate between variance and waiver (variance would be for design standards...ie reduce setback from 25 feet to 15 feet) (Waiver would be waive requirement of street lighting, traffic study or other provision) – PC approval vs staff approval *internal changes should be staff level ie parking space size, parking lot landscaping - drive thru setbacks*
- Section for Plan Changes
- Waiver advertising length...coincide with Sketch advertising of 14 days – Article 5, section 8c
- Setback encroachments, ie decks, bay windows, eaves, satellite dishes, etc. *stairs*
- Revise setbacks – side and rear for ALL lots; look at front setbacks for all classifications of roads (DOH and private)
- Engineer review final plats?
- Section for minor plans/preliminary final plats

- Plan Change app no engineer review fee -- fix
- Plans that create lots -- family transfer, prelim/final -- minor plans?
- Minor plan section with items to be included -- more definitions of each
- Definition chapter needs to be expanded
- Use setback instead of BRL -- choose one and be consistent
- Article 8 -- parking setback from buildings
- Recordation of Final Plat time frames
- Doing Final Plats from Prelim Plans in Commercial developments -- conceptual lot lines ie Stone Crest Subdivision
- Swimming pool parking -- public pool vs private amenity
- Make File # part of required information on plans
- Organization of Ordinance -- admin section up front, Sect 603 in admin
- Projection into setbacks -- see Tuscarora Zoning Ordinance Section 404.6
- Surveyors certificate on Site plans / Preliminary Plans
 - may be needed or not?
 - Jefferson County - can provide boundary survey
- File #ing for commercial parks -- ie lot 1 developed, then lot 2 couple of years later
- Salvage Yard Ordinance -- setbacks from streams; update flood hazard area dates to 2009 -- work with Elaine Mauck
- Specify public hearing advertisement lengths -- waiver (21), Final plat (21), sketch (14) -- in definitions under public hearing or in each section -- time frame not included in Section 1203 Waivers
- Surveyors Certificate and signature -- when required, when applicable -- check with Surveyors -- Preliminary Plans?

- 801.1.2 – parking space depth to 16' -- move to point #1
- Lots that touch floodplain must have minimum lot size outside of floodplain area, for example, if half a lot w/water and sewer is in floodplain, buildable area must still be 7500 square feet
- Setbacks -- Table says for side lots must have 50' setback from DOH – needs to be removed
- Plan process / requirements for Farmland Preservation to create 2 2-acre development parcels – what standards to comply with? Ask Bob White
- ~~402.2.c.21~~ – slopes need to be flipped around – check with Kim
506.d
- Section 502 – DOH Traffic Study – change so only DOH can require a traffic impact study
- Change of Impact section? To require new permits and review of site plan?
- If bridge is proposed as entrance, MUST provide second point of access
- Review panhandle lots with DOH – see how permitted and if they like them
- Bridge section – maintenance, ownership
- Time frame to record Final Plats
- Have all owners affected sign plats
- Lot sizes for septic systems should correspond with Health Department Class I and Class II requirements
- Mobile Home Park regs – sizes for rental communities?
- Sidewalks - esp. small commercial in remote areas

Comments from Terry Placanica:

- Mergers/Prelim-Final/Family transfer – should be for people in County without a lot of money
 - o Can be too cost intense for local landowners

- o Regulations too difficult for local people
 - Maybe add some variance language for Family Transfer – 2 acres can be restrictive for some lot owners in County
 - Relax the minor regulations
 - Also, some regulations bring in engineers instead of surveyors – puts cost up on land owners
 - Put Family Transfer lots through faster?
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- o Public Hearings → when required and how many needed
 - may need State input
 - o Jefferson County - looking at changes to Section 8A
 - o issue of PH at Final Plat stage
 - o Process - keep PH at Sketch Plat step
 - o Flow chart for procedures and reviews
 - o 2 acre lot size for Prelim/ Final

501. h - buffer should be back in buffer section

503- definitions of roads

- comp plan or sub. ord classified roads