

City of Lewisburg
Planning Commission Working Session
Meeting Minutes ~ December 2, 2021, 5:30 p.m.
942 Washington Street West, Lewisburg, WV
Paul R. Cooley Council Chambers

PRESENT: Chair John Little, Valerie Pritt, Margaret Gossard, Davis Lewis, Tia Bouman (via ZOOM), Helen Harless, Dan Stevenson (via ZOOM), Planning and Zoning Officer Marsha Cunningham, Misty Hill, Recorder Sarah Richardson

ABSENT: None

VISITORS: Christy DeMuth and student Samsher Dhaliwal of WVU Law (via ZOOM), Skip Deegans, and Donna Johns

CALL TO ORDER: The meeting was called to order at 5:30 p.m. by Chair John Little.

APPROVAL OF MINUTES: The minutes of November 9, 2021 meeting were approved with a motion from Margaret Gossard and a second from Valerie Pritt. With all in favor, the motion carried.

PUBLIC COMMENT: Skip Deegans said that the HLC has been discussing B&BI, and noted that they would like be updated on the Planning Commission's discussions regarding B&BIs. He also noted the HLC is working with city consultant Michael Mills on this topic. Chair John Little said they "welcome input from the HLC in any way," and said they are looking for what's best for the city. Misty Hill said she will ensure that all Planning Commission meeting minutes are sent to the HLC to help everyone stay updated.

Review and Discuss: Bed and Breakfast Regulations in the Historic District

Christy DeMuth began in saying that the commission needs to discuss the proposed boundaries of the historic district where B&BI can be regulated. Margaret Gossard asked how many there are already, and Marsha Cunningham said they aren't 100% sure as the city has just recently uncovered some operating without proper licensure. Misty Hill noted that some of the owners "don't live here and aren't cooperating with the city," while others are working to remedy the lack of a business license, etc. Gossard asked what the city can do about this, and Misty said that since any unknown business operation without proper licensing aren't technically approved, they therefore would hypothetically not be grandfathered in under the new Permissible Use Table if that license filing hasn't been completed and approved.

Chair John Little said that if these B&BIs are not operating with a business license, and are not paying hotel/motel tax, and they are therefore in violation of those things, what could be done for those violations. Misty Hill said that they could be penalized, and they could receive a letter from the city's attorney, but the city would want to try and remedy the situation before it would come down to that.

Marsha said that they have been explaining these policies to the local realtors so they can educate clients buying property and homes in the historic district, as well.

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Margaret Gossard suggested maybe the city could install a certain type of signage within the historic district so that visitors and residents would know “at a glance” if they are within historic downtown limits. Misty Hill responded that the Wayfinding Committee is working on things of that nature.

Christy DeMuth returned the conversation to discussing the historic district, and stated that she was under the impression that adding an overlay would be better for the historic district regulation. She noted it’s the applicant’s responsibility to know zoning laws for the area, and this would be like other zoning laws the city has in place currently. Marsha Cunningham said she thinks it would be easier to just say “the historical district,” since it mostly deals with downtown. Misty Hill clarified that in adding these guidelines for B&BI, there are still some B&BIs already operating with permission from the city that will be grandfathered in.

Misty Hill said that adding an overlay for “all of the historic district would make it easier,” for regulation. Margaret Gossard said, “I feel strongly that we need to protect as much of Lewisburg as we can.” John Little added that, “if I had a piece of property, I would be trying to turn it into a B&B down here. But I would also follow the guidelines of the HLC. As a business person, I like the idea of them, but as someone trying to watch out for the community as a Planning Commission member, it’s concerning to me (...)”

Marsha Cunningham asked Christy if they chose to do the historical area, could they do so with conditional use permits as an option. Christy said she would have to reference with her colleague, Jesse Richardson of WVU Law, who has participated in meetings with the city before. Christy DeMuth noted that Jesse had said in previous meetings that he believed the city could not do conditional uses, but has since changed that stance to believing that the city can maybe do conditional use permits for this topic. For example, perhaps permitting B&BI in R1 and R2 zones, and allowing conditional use in the historical district. DeMuth said she can check on that with Jesse before the next meeting. B&BI and B&BII are still “in flux.”

Continuing Review and Discussion: Scenic Corridor Overlay Regulations

Christy DeMuth said the overlay language is already written, but the commission needs to decide what the frontage of the overlay is. Deciding on a certain number of feet off of the roadway has been discussed previously, pending more information. John Little said he was under the impression it would be the footage from the right-of-way, perhaps 150-200 feet, so really what is “against the road.” Christy said that

some cities have done as much as 500 feet back, but it varies. 200 feet back from the road was suggested, with Margaret Gossard saying, “That would be more tolerable,” than a larger distance.

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Review and Discuss: Special Event Supplemental Regulations

Christy DeMuth reviewed the definitions between types and sizes of events, and said they could be updated and changed to fit what the municipality desires. For Mass Events, Misty Hill noted that she didn’t believe Lewisburg has the immediate space for such an event in the Planning Commission’s coverage. DeMuth noted these sorts of events are common in Fayetteville and other areas that provide overnight lodging such as camping. Misty said that special events are reviewed and approved administratively, and DeMuth said that some other communities add it into the Permissible Use Table, but it’s not required to be regulated under the Use Table per say. Misty noted the city requires event applications, does \$1M in event insurance coverage for events that qualify, and that city officials hold meetings between the City, the Fire Chief, the Police Chief, and other leaders to review details as they discuss and approving or denying permits for small and large events.

John Little said, “I don’t see any reason for the Planning Commission to get involved if you’re ok with handling this administratively like that.” Misty Hill said, “I think that’s the most efficient way to handle this.”

Review and Discuss: Permissible Use Table

Christy DeMuth explained that in the Permissive Use Table, Extractive Industry “is required to be approved somewhere,” and noted that Morgantown tried to prohibit natural gas drilling, and they lost that case at the Supreme Court. John Little said if the city has to allow it somewhere if they could they approve it conditionally in Industrial. Christy said she will refer with Jesse Richardson if conditional use would be allowed rather than permissible use. They updated the table to conditional use in I1 for now.

For the Farm section, members voted to keep the table the same as under the Agricultural section. Agriculture is permitted in OC and I1. Farm was decided to be permitted in OC and I1, as well.

For the Laboratory category, it was decided to be permitted in EI and I1, and conditional in C1 and C2. The guidelines for laboratory operation are in the zoning ordinance, noted Christy.

Helen Harless asked if the commission could “maybe single out the bed and breakfast part and fast track it.” Christy DeMuth said they did “pull out” the PUD and passed that separately, but recommended talking to the city attorney about that option. “I wouldn’t be adverse to fast tracking it,” said Harless. John Little said that so far, the commission “hasn’t really changed anything,” despite talking about it for months. He said they are “a commission of inaction when it comes to that,” and said some decisions need to be made one way or another in regards to B&Bs. “We need to do something to be making progress,” said Little. Christy DeMuth said the city attorney would have to handle that, because it would be an amendment to the current city ordinance. The language for the change would have to come from Tom,

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with City Council approving it. “I’m open to that,” said John. “We need to start doing something.” Misty Hill said she would talk to Tom and set up some meetings about this.

DeMuth said that it had already been decided that Medical Cannabis Dispensary is permitted in C1, C2, and I1 in the Permissible Use Table. Marsha Cunningham added that according to the March 17, 2020 update on the permissive use (Ordinance 287, passed by City Council), Medical Cannabis Dispensaries are conditional in CC and C1, and permissible in C2, I1, and IC. She said the Medical Cannabis Growing Facilities are conditional in C2, I1 and permissible in IC. Medical Cannabis Processing Facilities are conditional in C2, and permissible in I1 and IC. Medical Cannabis Organization, Healthcare, is “basically a hospital doing that,” according to DeMuth. She asked if the commission would be ok with approving what city council already recommended, with the commission agreeing to do that route. It was decided in 2020 due to medical marijuana legalization, and the city not having regulations in place for that at the time.

For Reception Facility, DeMuth said this more applies for rural areas where barns or buildings in a residential area being turned into reception facilities and she wanted to check if this is something to regulate. Gossard said she feels like these things are covered under Special Events, and Helen Harless said that she believes in Lewisburg the individual facilities hosting such things do well at regulating these receptions themselves. Misty said that regulating these events in the table would be “looking to the future,” with current unusual wedding venues, and said she believed it to not be harmful. Helen Harless said she believed it to be “disingenuous” to encourage large events and then have too many regulations. DeMuth said it gets tricky when someone goes to host an event that it originally isn’t intended for, such as in a B&B.

In reviewing the definition for Reception Facility and Recreation (Private), John Little said, “All of these things are businesses, if somebody wanted to have a wedding business or a private recreation business,” and said they should therefore be allowed in commercial. Misty Hill asked why other cities chose to regulate these things in the Use Table, with DeMuth saying every other city has districted these to somewhere in the community.

Reception Facility was determined to be permitted in C1, C2, and I1. Recreation, Private, was determined to be permitted in C1, C2, and I1. Recreation, Public, was determined to be permitted in OC.

The commission agreed to remove the Stockyards section from the Permitted Use Table.

The commission agreed to remove the Tourist or Trailer Camp from the Permitted Use Table, citing it as more of a county issue.

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Christy DeMuth noted that Wireless Telecommunications Facility, Small, actually have to be allowed everywhere. Wireless Telecommunications Facility just have to be allowed somewhere in city limits. These items will be addressed at the next meeting in more detail.

COMMENTS from the COMMISSION: Chair John Little noted that he appreciated Helen Harless' comments on moving forward with the B&B discussion.

COMMENTS from the ZONING OFFICER: Marsha Cunningham said the next meeting's materials were available to review in a printout.

The next Planning Commission Working Session Thursday, January 6, 2021, at 5:30 p.m. The Planning Commission meeting will follow at 7 p.m.

ADJOURNMENT: The meeting was adjourned at 6:55 p.m. in a motion by Helen Harless with a second from Valerie Pritt.

Respectfully submitted,
Sarah Richardson
Recording Officer