

Meeting Minutes
Jefferson County Planning Commission
March 09, 2021

The Jefferson County Planning Commission met on March 9, 2021 at 7:01 p.m. with the following Commission members present: Mike Shepp, President; Donnie Fisher, Vice President; Wade Louthan, Secretary; Jack Hefestay, Ron Thomas, Shane Roper, Steve Stolipher, Matt Knott and Jay Ware.

Staff members present included Jennifer Brockman, County Planner; Alexandra Beaulieu, Zoning Administrator; Nathan Cochran, County Attorney, Jennilee Hartman, Zoning Clerk and Alice Johns, Planning Clerk.

By order of the President, the Planning Commission meeting was held virtually via ZOOM. Access information was made available on the agenda and packet, which were posted to the County website.

The Planning Clerk conducted a roll call. Mr. Shepp verified that there was a quorum and called the meeting to order at 7:01 PM.

1. **Approval of Meeting Minutes:** February 9, 2021 and February 23, 2021. The minutes were approved as submitted.
2. **Citizen Communication:** Citizens were able to sign up for this item utilizing the chat function in ZOOM. There were no citizen communications.
3. **Request for postponement:** None
4. **Public Hearing:** Waiver from Section 20.201B.3, which requires all lots in Minor Family Transfer Subdivision to have motor vehicle access via a 50' access easement. The applicant is proposing to utilize an existing 40' access easement instead of the required 50' access easement for the creation of a family transfer parcel. Owner: Donna Bent. Property Location: 1332 Billmyer Mill Road, Shepherdstown, WV. Tax District: Shepherdstown (9); Tax Map: 6; Parcel No: 5.6. Total Project Size: 10.38 acres; Zoning District: Rural. (File # 21-3-PCW; discussion and possible action)

Ms. Brockman presented an overview of her staff report to the Commission. The applicant is proposing a family transfer lot for her parents at the southern end of the property and would like to use the existing 40' access easement. The required 50' easement is not possible as the road frontage on Billmyer Mill Road is less than 50 feet. Ms. Brockman noted that the applicant had previously received a setback variance from the existing 40' access easement for existing structures. Staff recommended that if the Planning Commission is inclined to approve the waiver, it should be limited to the one proposed Family Transfer lot for a maximum of three lots.

Ms. Bent, the applicant, was on the ZOOM call and had no further comment.

Mike Shepp, opened the item for public comment. There was no public comment.

Mike Shepp, closed the item for public comment.

Jack Hefestay made a motion to approve the request, which carried unanimously.

Mr. Steve Stolipher recused himself from items #5 and #6 below.

5. **Discussion and Recommendation:** Planning Commission review and recommendation to the County Commission regarding whether the Zoning Map Amendment to rezone the subject parcel from Rural to Highway Commercial is consistent with the 2035 Comprehensive Plan. Owner: Guy Chicchirichi. Applicant: Bob Franks, Sheetz, Inc. Property Location: Northeast of Augustine Avenue and Route 340 intersection in Charles Town. Parcel ID: Tax District: Charles Town (02); Tax Map: 16; Parcel 1. Proposed size: 2.5 acres (File # 21-1-Z).]

Ms. Brockman presented an overview of her staff report to the Commission and stated that the Planning Commission is required to recommend to the County Commission whether the request is consistent with the Comprehensive Plan. The *Envision Jefferson 2035 Comprehensive Plan* generally recommends that all urban development occur within the Urban Growth Boundaries shown on the Future Land Use Guide. She noted that the most of the properties within the Urban Growth Boundaries which are zoned rural are shown as “rural/agriculture land for possible urban development” on the Future Land Use Guide Map; however this particular property is shown as future Large Lot Residential.

The proposed rezoning is located within the Charles Town Urban Growth Boundary at the intersection of Augustine Avenue (a two lane road from town) and US 340 (a four-lane divided federal highway). Access is proposed from Augustine Avenue directly across the street from Washington High School’s driveway. There are existing turn lanes on Augustine Avenue related to the high school and there is a traffic light at US 340 and Augustine Avenue. WV DOH will determine if additional turn lanes will be required for the Sheetz. A traffic impact study has been completed.

Staff recommended that while the future land use map may not show this as future highway commercial, other portions of the Comprehensive Plan recommend that all this rural and undeveloped land within the Urban Growth Boundary be developed at Urban Level Density.

Mr. Mark Dyck with Gordon explained that the property in question used to be larger, but when the US 340 Bypass was constructed, the eastern half of the project became a part of the DOH right-of-way. The remainder of the parcel has been vacant since US 340 was constructed. Mr. Dyck stated that the location of this parcel is suitable for highway/commercial use and would not be suitable for residential development due to the noise and visual impacts of US 340 by pass. The development of a Sheetz at this location will serve the US 340 traveling public, keeping money in the county that is currently flowing to Clarke County. There is water/sewer available to serve to the property.

Mark with Gordon also stated that there is coordination between the Department of Highways to address the entry and exit at this location. He further stated that a Traffic Engineer and a representative with Sheetz were also on the line to address any further questions.

Mr. Hefestay inquired about the existing trees on the property. Mark with Gordon stated that the majority of the trees are on the eastern edge of the property (which is not part of the rezoning request). Any trees which are part of the rezoning request would need to come down.

Mr. Shepp requested clarification regarding the parcel as pictured on the graphic. Ms. Brockman clarified that the entire parcel (4.42 acres) was outlined in blue and that only the 2.5-acre western portion of the property is proposed for rezoning and would require subdivision. Ms. Brockman further clarified that the area around this property is partly in the City of Charles Town and partly in the County and described the various land uses and zoning.

Mr. Hefestay made a motion to recommend to the County Commission that the requested Zoning Map Amendment is in conformance with the Comprehensive Plan. The motion was seconded by Shane Roper, and passed unanimously.

- 6. Discussion and Possible Action:** Proposed text amendment to the Jefferson County Zoning and Land Development Ordinance; File # ZTA19-03, to allow Solar Energy Facilities to process as a Principal Permitted Use in the following Zoning Districts: General Commercial, Highway Commercial, Light Industrial, Major Industrial, Rural, Residential Growth, Residential-Light Industrial-Commercial, and Industrial Commercial. The text amendment proposes revisions to

Article 2 Definitions; Article 8 Supplemental Use Regulations (creation of Section 8.20 Solar Energy Facilities); and Appendix C Principal Permitted and Conditional Uses Table.

Mr. Shane Roper recused himself from this item.

Mr. Matt Knott made the motion to go into Executive Session at 7:20 pm. The motion carried unanimously.

Mr. Jack Hefestay made the motion to come out of executive session at 7:54 pm. The motion carried unanimously.

Ms. Alex Beaulieu made a clarification that at the last meeting, the Planning Commission informally agreed that underground utilities should not be subject to the 25-foot setback required for accessory components. Ms. Beaulieu noted that if the Planning Commission would like to incorporate this change as part of the amendment, they should make a formal motion to adopt the change.

Mr. Hefestay made a motion to adopt the revised text on page 4. Mr. Knott seconded the motion, which carried unanimously.

Mr. Shepp reviewed the Findings of Fact and Conclusions of Law by reading the following excerpt:

For the foregoing reasons, the Planning Commission finds and concludes that the Solar Text Amendment, File No. ZTA 19-03, is consistent with the Comprehensive Plan. To the extent that it may be inconsistent (if at all) the Commission finds that there have been major changes of an economic, physical or social nature within the area involved which were not anticipated when the comprehensive plan was adopted and those changes have substantially altered the basic characteristics of the area, which changes include the demand of citizens for green energy as evidenced during the meetings before the Jefferson County Commission concerning the Rockwool project.

Moreover, the Planning Commission advises the County Commission of the Findings and Conclusions herein and further concludes that it is appropriate to forward the STA to the County Commission for further consideration, modification and/or approval in accordance with State Law and the Zoning Ordinance.

Mr. Hefestay made a motion to accept the Findings of Fact and Conclusions of Law as drafted and to authorize Mr. Shepp to sign on behalf of the Planning Commission. Mr. Knott seconded the motion, which carried unanimously.

Mr. Steve Stolipher and Mr. Shane Roper were admitted back into the meeting after this agenda item was complete.

7. Discussion and possible Action: Related to the format of meeting agendas (Shepp).

Mr. Shepp led a discussion related to why Citizens Communication is listed as a section on agenda. He noted that if an item is a public hearing or public workshop, then public comments are accepted *as part of* the public hearing or public workshop. It is unclear why the Planning Commission is inviting the public to speak to an item that is not open for public comment, Mr. Jack Hefestay agreed that removing this item would clean up the agenda and make it more understandable.

Mr. Shepp also explained that a request had come in about scheduling a second meeting in April. Mr. Shepp would like to revisit the Planning Commission's 4th Tuesday meeting policy, but as it is not on today's agenda, this discussion will be placed on the Agenda for the April 13, 2021 meeting with Discussion and Possible action.

Mr. Steve Stolipher stated that there was an ethics opinion regarding removing the Citizens Communications section from Agenda. Mr. Nathan Cochran confirmed that there is an ethics opinion from the Attorney General's office which states there is not a requirement for public comment as part of the Open Meetings Act. Mr. Donnie Fisher provided an example of public citizen who provided comment under Citizens Communication in the past. The example provided related to the Shepherdstown bike path. Ms. Brockman explained that citizens could always contact the Planning & Zoning office and request that an item be listed on the agenda.

The motion to delete Citizens Communications section on the agenda was made by Mr. Mike Shepp, which was seconded by Jack Hefestay, and carried unanimously.

8. **Review and approval:** Planning and Zoning FY 2021 2nd Quarterly Report

Mr. Donnie Fisher made a motion to forward the Planning and Zoning FY 2021 2nd Quarterly Report to the County Commission. Mr. Jack Hefestay seconded the motion and the motion passed unanimously.

9. **Reports from Legal Counsel:** None.

10. **Planner's Memo:** Ms. Brockman provided an overview of the items noted on the Planner's Memo included in the packet.

Mr. Shepp asked about the status of this year's budget and reminded the Commission that state law says they should have input into the Planning Commission's portion of the budget. Ms. Brockman said that she would follow up with Roger Goodwin, Director of Engineering, Planning and Zoning, on the status of the budget for the upcoming Fiscal Year.

11. **Presidents Report:** None.

Mr. Jack Hefestay made a motion to adjourn the meeting at 8:16 pm. Mr. Donnie Fisher seconded the motion, and the motion carried unanimously.

These minutes were prepared by Alice Johns, Planning Clerk.