

Jefferson County Planning Commission  
June 14, 2016

The Jefferson County Planning Commission met on June 14, 2016 with the following Commission members present: Mike Chapman, President; Wade Louthan, Vice President; Donnie Fisher, Secretary; Steve Stolipher, Gary Phalen, and J Ware. Staff members present included Jennie Brockman, Director of Planning and Zoning; Lydia Lehman, Assistant Prosecuting Attorney; Jonathon Saunders, County Engineer; and Rhonda Greenholtz, Planning Clerk

Mr. Gene Taylor and Mr. Dickie Childs were absent with prior notification.

Mr. Eric Bell was absent without prior notification

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

1. Approval of the minutes from the following Planning Commission Meetings

- April 12, 2016
- May 15, 2016

The April 12, 2016 minutes were approved with no objections

The May 15, 2016 minutes were approved with the correction of Item #2 to read “Land Evaluation and Site (not Soils) Assessment (LESA)”.

2. Citizen Communications. None.

3. Request for postponement: None

4. **Public Hearing:** Request by applicant Uvilla United Methodist Church (PCW#16-03) for a waiver from Appendix B, Section 2.3 (B) of the Subdivision Regulations which requires that a non-residential subdivision entrance apron be constructed of WWF reinforced 3,000 psi Portland cement concrete. The applicant is proposing to utilize the existing asphalt entrance apron and is also asking for a waiver from the entrance width limit requirement. The property is designated as Tax District: Shepherdstown (09); Tax Map: 20; Parcel: 13; Zoned: Rural (R); Owner/Developer: Uvilla United Methodist Church.

Ms. Jennifer Brockman provided an overview of the request. She deferred to the County Engineer on this request.

Mr. Jonathon Saunders, County Engineer spoke. He stated that the applicant would not be utilizing the entire existing asphalt apron. The asphalt that was placed exceeds the standard cross section in Section 9.5. Due to the existing apron showing no signs of failure, the Engineering Department recommended approval provided the access was limited to light vehicles.

Mr. Ted Shiltz, Trustee for the Uvilla United Methodist Church spoke. The driveway has existed in excess of 12 years and has only been used once or twice a week for Church services and functions only. It is not for heavy commercial uses. Mr. Shiltz requested to be able to utilize the existing entrance. If the request is granted, they will reduce to the recommended size required. Mr. Shiltz also stated that the WVDOH installed the entrance and it is holding up very well.

Mr. Mike Chapman opened the floor to Public Comment. No Public comment was had.

Mr. Mike Chapman closed the floor to Public Comment.

Mr. Steve Stolipher made a motion to approve the waiver request to utilize the existing asphalt entrance apron and to approve the request to waive the entrance width limit requirement.

Mr. Gary Phalen seconded the motion. A vote was taken which carried unanimously.

5. **Public Hearing:** Request by applicants John R. & Judy L. Shea (PCW#16-04) for a waiver from Section 20.201(A) 2 of the Subdivision Regulations which requires lots in the Rural District to access a road right-of way having a width of 50'. The property is designated as Tax District: Kabletown (06); Tax Map: 16; Parcel 16.4; Zoned: Rural (R); Owner/Developer: John R. & Judy L. Shea.

Ms. Jennifer Brockman spoke. This property has a complex history and has been the subject of numerous previous requests to allow development utilizing the short section of a 30' wide easement immediately off of Steptoe Street. The applicants are proposing to create a new Parent-to-Child minor subdivision lot. All Minor Subdivisions are required to access a State Road via a 50' easement and have a maximum of five lots permitted to access an unimproved access easement. A portion of the easement containing Walking Horse Lane is only 30' in width and therefore the applicant is requesting this Planning Commission Waiver to allow the easement to continue as currently configured.

While it appears that five (5) lots currently access off of Walking Horse Lane, it has been determined that the lot at the corner of Steptoe Street and Walking Horse Lane is both addressed on and accessed off Steptoe Street. Therefore, this lot does not count toward the maximum number of lots that can access Walking Horse Lane. As such, the proposed Parent-to-Child lot constitutes the fifth lot on this access easement. Any future divisions along this easement will require Walking Horse Lane to meet County Grade Road Standards and will process as a Major Subdivision.

The Departments of Planning and Zoning defer to the Engineering Department on this request.

Mr. Jonathon Saunders, County Engineer spoke. If the required 50' easement is waived and the existing entrance is utilized, this would be the fifth lot having access to the 30' easement. This will process as a minor subdivision and no improvements are required. This approval will restrict all 5 lots from further subdividing under the minor subdivision process. Any further subdivision will be required to process under the major subdivision regulations unless a waiver is granted by the Planning Commission. The Engineering recommends approval of the requested waiver.

Mr. Mike Chapman opened the floor to public comment. No Public Comment was had.

Mr. Mike Chapman closed the floor to Public Comment.

Mr. Donnie Fisher made a motion to approve the request for a waiver from the right of way width requirement.

Mr. Wade Louthan seconded the motion. A vote was taken which carried unanimously.

6. Review and Possible action on the proposed text amendment to multiple sections of the Jefferson County Zoning and Land Development Ordinance (ZTA 16-01) heard at the Public Hearing held on May 17, 2016. This text amendment proposes to replace the current nontraditional zoning ordinance with a traditional zoning ordinance by eliminating the DRS/LESA CUP Process (Articles 6 and 7) and replacing it with a traditional Principal Permitted and Conditional Use process; proposes to increase the density provisions of the Rural Zoning Cluster Development Provisions in Section 5.7; and proposes related rural land use amendments throughout the Ordinance.

Ms. Jennifer Brockman presented a Matrix showing the Proposed Language in the Draft Amendment, Public Comment and Staff Recommendations. A copy of this Matrix is attached to and made part of these minutes. A brief synopsis is listed by Item number and the Planning Commission Direction for each item.

- 1) Section 2.2, Terms Defined: “Adaptive Reuse”. Planning Commission (PC) recommended approval of proposed definition.
- 2) Section 2.2, Terms Defined/PPU Chart: “Airfield, Private; Airfield, Private/Helipad”. PC recommended the addition of these items to the definitions and the PPU chart as permitted in the Rural (R), Industrial (I) and Commercial (C) zones.
- 3) Section 2.2 Terms Defined: Battlefields. The PC revised the proposed definition to read, “There are four Federally recognized battlefields in Jefferson county as determined by the Civil War Sites Advisory Commission. For the purpose of this Ordinance, green space includes core battlefield areas.
- 4) Section 2.2, Terms Defined: “Farm Market”. PC recommended the following revision: “A producer operated market for the sale of farm products, the majority of which are grown or produced on the producer’s land or farm and product incidental to farm products.”
- 5) Section 2.2, Terms Defined: “Green Space”. PC recommended keeping “core battlefields” in the definition.
- 6) Section 2.2, Terms Defined: Create a new Institutional Use; “Nature Center and Preserve” and define the use. PC recommended the definition be shortened and the details to be in Article 8 Supplemental Uses. PC also recommended the addition of “Nature Center and Preserve” with a shortened definition.
- 7) Section 2.2, Terms Defined: Define “Conditional Use permit” (CUP) and explain process for applying for a CUP. This is currently outlined in Section 3.4(A) b and c. An application form will be created with the PC approval. PC recommended approval of language currently included in the Section referenced above and approved the creation of an application form.
- 8) Section 3.4, Boards and Commissions: Addition of the roles and responsibilities of the Jefferson County Historic Landmark Commission (JCHLC). PC recommended deleting from Section 3.4. PC recommended moving the proposed No. 1 to the Definitions.

- 9) Section 3.4A, Boards and Commissions; Board of Zoning Appeals, Section 5.a.ii, 5.a.iii, 5.a.v. and 5.a.vii; PC recommended accepting staff's proposed changes to 5.a.ii and 5.a.v. PC recommended deleting 5.a.iii and revising 5.a.vi to read, "Operations in connection with the use shall be in conformance with Section 8.9 of this Ordinance.
- 10) Section 4A.5. Cottage Industry: PC recommended staff's proposed change.

Mr. Mike Chapman called for a break at 8:10 PM

Mr. Mike Chapman called the meeting back to order at 8:15 PM.

- 11) Article 1; Section 1.II, Article 5; Section 5.7 and Section 5.10: Public Water and Sewer in Rural and Village Zoning Districts. PC recommended approval of Staff's recommended addition to Sec. 1.II. PC recommended deleting "intended to be" from the opening paragraph of Sec. 5.7. PC recommended adding staff's proposed language to the opening paragraph of Sec. 5.10 with the addition of "to be served with public *or private* water...".
- 12) Section 5.7, Rural (R) District; C. Height Restrictions: PC recommended changing the height from the proposed 75' to 45' with the stipulation that any variation of this will require BZA approval.
- 13) Appendixes A & B: PC recommended increasing the maximum allowable height in the Rural (R) District from 35' to 45' (originally proposed an increase to 75').
- 14) Section 5.7D.2 – Clustering; Subsection b.i (b): PC recommended the addition of Staff's proposed language: "A note to this effect shall be placed on all cluster plats".
- 15) Section 5.7D.2 – Clustering; Subsection b.i (b): PC recommended adding a sliding scale to incentivize large areas to be retained as green space. Mr. Steve Stolipher presented a draft sliding scale outlining the Residue percentage and the Density allowed as follows: 50% = 1 per 5 acres; 55% = 1 per 4.5 acres; 60% = 1 per 4 acres; 65% = 1 per 3.5 acres; 70% = 1 per 3 acres; 75% = 1 per 2.5 acres. PC recommended adoption of the sliding scale as presented.
- 16) Section 5.7D.2 – Clustering; Subsection b.i (b): PC recommended no changes to the term "Green Space".
- 17) Section 5.7D.3 – Development Rights/Density: PC recommended the addition of Staff's proposed language, "...Such application may process as a Minor Subdivision *in accordance with the Subdivision Regulations, and shall be exempt from density limitations provided that all subdivision requirements are satisfied.*"
- 18) Section 5.7D.4 –Parent to Child lots (Family Transfers): PC recommended Staff propose a future amendment to exclude the review of a family transfer deed by Planning/Zoning.
- 19) Article 8, Supplemental Use Regulations: PC recommended addition of a new section for "Adaptive Reuse of existing structures".

- 20) Appendix B – Non-Residential Site Development Standards Table: Setback revisions. PC recommended reducing side and rear yard setbacks for commercial sites greater than 1.5 acres from 50’ to 25’.
- 21) Appendix B – Non-Residential Site Development Standards Table: PC recommended that Staff propose a separate amendment to reduce screening and buffer requirements for neighboring commercial projects in September.
- 22) Appendix C - Principal Permitted Uses (PPU) table: Consider school types, Campgrounds, Art Gallery/Artist Studio and Antique shops as Permitted or Conditional Use in the Rural District. PC agreed that no change is required for schools as they are already a PPU in the Rural district. PC agreed that Campgrounds are being addressed under a separate amendment. PC recommended that Art Gallery/Artist Studio and Antique Shop be changed from “Not Permitted” to “Conditional Use” in the Rural district.
- 23) Appendix C - Principal Permitted Uses (PPU) table: PC recommended that “Small Medical” and “Professional Offices” be changed from “Not Permitted” to “Conditional Use” in Appendix C.
- 24) Appendix C - Principal Permitted Uses (PPU) table: PC recommended no changes. Keep “Gas Station, Limited” and “Gas Station” as a Conditional Use (CU).
- 25) Appendix C - Principal Permitted Uses (PPU) table: PC requested that staff draft an amendment to allow a detached “Mother-In-Law” suite in the Rural District. Staff should draft language that allows both a mother-in-law suite as well as an “Agricultural Accessory Dwelling Unit” with administrative approval. Staff agreed to draft language to present to the Planning Commission at their July meeting.
- 26) Appendix C - Principal Permitted Uses (PPU) table: PC recommended reinstating “Commercial Uses” to the PPU Chart as recommended by Staff. PC recommended that “Mixed Use Buildings” be changed from Conditional Use to Permitted, and that “Bed and Breakfast” be changed from Not Permitted to Permitted in the Residential-Light Industrial-Commercial district.
- 27) Appendix C - Principal Permitted Uses (PPU) table: PC recommended changing “Airports” and “Private Airfield” from Not Permitted to Conditional Use in the Residential-Light Industrial-Commercial (RLIC) District.
- 28) Appendix C - Principal Permitted Uses (PPU) table: PC recommended that Staff further investigate the legality of the public comment that Mobile homes are legally permitted anywhere a stick built house is permitted.

Mr. Steve Stolipher made a motion that staff make the recommended changes and forward to the County Commission for the purpose of scheduling a Public Hearing.

Mr. Donnie Fisher seconded the motion. A vote was taken which carried unanimously.

Ms. Jennifer Brockman asked for latitude to bring any questionable items back to the Planning Commission. She asked to be able to email the Planning Commission with any possible re-drafts on any of the amendments before sending to County Commission.

Mr. Mike Chapman agreed with Staff's request.

7. Reports from Legal Counsel and legal advice to the Planning Commission.

a) Active Litigation:

- Far Away Farms: Report on legal action in Jefferson County Circuit Court, Case # 11-C-325 Possible Executive Session. None
- Shiloh Citizens Association: Report on legal action in Supreme Court, Docket #15-1031 Possible Executive Session. None

8. Director's Report.

- The County Commission will be discussing the Campground Ordinance on Thursday, June 16, 2016. Staff was directed to go back to the Citizen Committee version. Some modifications were made.
- Pending Zoning Ordinance and Subdivision Regulation Amendments
- Upcoming PC meeting

9. President's Report. None.

10. Actionable Correspondence. None

11. Non-Actionable Correspondence. None

Mr. Mike Chapman motioned to adjourn the meeting at 9:25 PM.