

Jefferson County Planning Commission  
September 13, 2016

The Jefferson County Planning Commission met on September 13, 2016 with the following Commission members present: Mike Chapman, President; Wade Louthan, Vice President; Gary Phalen, Gene Taylor, Steve Stolipher and 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

Dickie Childs, J. Ware and Peter Onozko were absent with notice.

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

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

- July 26, 2016

The minutes were approved with no objections

2. Citizen Communications. None.

3. Request for postponement. None

4. **Public Hearing:** Waiver request for Charles Town Self-Storage Expansion (PCW#16-08). The Applicant is requesting a waiver from Section 20.102(B) which requires approval of a Site Plan prior to commencement of land development. The property is designated as Tax District: Charles Town (02); Tax Map: 9; Parcel: 8.3; Zoned: Residential-Light Industrial-Commercial (RLIC); Size: 5.4 acres; Owner: CTSS, LLC

Mr. Steve Stolipher recused himself from this portion of the meeting citing conflict of interest.

Ms. Jennifer Brockman provided an overview of the request. She provided a brief history of previous waiver requests and a status of the Site Plan currently under review.

Ms. Kristen Stolipher, Gordon, representative for the applicant spoke. The Site Plan has a few minor comments to address before final approval will be given. One major outstanding issue is receiving WVDOH (West Virginia Dept. of Highways) approval to perform work in a WVDOH drainage easement located on the eastern side of the property. An email was received by Gordon from the WVDOH stating an official approval is forthcoming. The applicant would like to start grading and utility improvements on the site outside of the WVDOH easement area before the Site Plan receives approval. Ms. Stolipher has been in contact with the Jefferson County engineering staff. Written approval from the WVDOH on their letterhead approving this request is required before issuance of final site plan approval. A bond for all work on this project has been approved and can be posted as soon as tomorrow. The applicant is fully aware of any liability placed on him for work done prior final approval.

Ms. Brockman stated early grading only outside of the WVDOH easement would be a reasonable request. Staffs concern is that without formal WVDOH approval if utilities are constructed within the easement area, what happens if WVDOH approval is not granted? One suggestion would be for the applicant to submit a standalone approvable grading plan sheet and bond for early grading only. This would require waiting for official final WVDOH approval before any further work may commence. The Planning Commission approved a previous waiver request (PCW#16-07 request to place encroachments within a WVDOH easement. This was approved contingent upon WVDOH approval).

Mr. Jonathan Saunders, County Engineer spoke. In order to start grading before final approval of the site plan, a sediment and erosion control plan would be required. The owner must realize the risk

taken and the County will not be held liable if problems arise due to this request if approved. The Engineering Department agrees with Planning Staff that grading only be approved and that a grading plan be submitted for approval and the bond be posted prior to any commencement of work performed. The County Engineer supports approval of this waiver provided the developer agrees to assume all risks for jump starting the project; to limit all work to just site grading only; obtain an NPDES permit, submit a satisfactory site grading plan for review and approval; provide bonding for sediment/erosion control/SWM, etc.

Ms. Kristen Stolipher read from an email to Gordon from Mr. Dave Cramer, WVDOH, “ *If the project is to advance and features are to be installed within our PDE (Permanent drainage easement) as currently is the case, DOH will draft an agreement with the owner/others regarding proposed features to be installed within the PDE*”. The owners are willing to take on the responsibility of early grading and early installation of utilities within the PDE. This would include the posting of a full bond. As built plans will be submitted at the completion of the project so the owner will want to ensure that everything is done correctly. The owner would like to start construction before the weather gets bad and is willing to assume all liability if this waiver is granted.

Mr. Chapman opened the floor to public comment.

No public comment was had.

Mr. Chapman closed the floor to public comment.

Mr. Donnie Fisher asked if there is a financial benefit to starting the utilities coinciding with the grading.

Ms. Stolipher responded that a substantial amount of fill is needed on the site. Only so much can be done in small portions of the site without impacting where the utilities will be installed. For example, if everything is brought up to final grade it will need to be re-excavated to install the storm water management pipe.

A discussion ensued regarding the risk of liability if the WVDOH does not grant approval of the work proposed to be within the WVDOH PDE. Ms. Stolipher assured the Planning Commission that the owner is fully aware of the risk and assumes full financial responsibility.

Mr. Fisher made a comment that he personally contacted WVDOH on a separate issue and was told that the waiting period is approximately six weeks so he can sympathize. He asked Ms. Brockman if an approval is close and what the harm may be by allowing this request. She responded that her concern is that the email received from the WVDOH also stated that “*the plan sheet previously provided to us indicates the suggested revisions are acceptable to us, conceptually, and we can move forward with the detailed plan review (entire plan set) when those plans are presented to us*”.

Mr. Chapman asked if there were any real risk to the County if the client needs to dig the pipe back up and reposition it. Ms. Brockman responded that if the bond is in place and something happens the bond can be called and the County will fix it. Mr. Saunders also responded that if that happens the site would be returned to grass.

Ms. Stolipher responded that initially, the storm water pipe would be installed and the water and sewer lines designed have been moved out of the WVDOH PDE. She reiterated that the owner accepts full and all responsibility of all work performed within the PDE.

Mr. Gene Taylor made a motion for approval of early grading only which died for lack of a second.

Mr. Donnie Fisher made a motion to approve the request for early grading and for the construction of utilities outside of the WVDOH PDE provided the applicant is fully aware that they assume all financial responsibility and the bond must be in place for all construction prior to commencement of work. Mr. Chapman seconded the motion which carried unanimously.

Mr. Steven Stolipher re-entered the meeting.

5. Planning Commission By-Laws. Discussion/possible drafting of policy regarding criteria for scheduling a fourth Tuesday meeting of the Planning Commission.

Ms. Jennifer Brockman spoke that an Amendment to the Bylaws must be approved by the County Commission. The Planning Commission may adopt a Policy regarding the holding of the fourth Tuesday meeting. Ms. Brockman proceeded to explain the necessity of holding these meetings previously were due to full agendas or for Planning Commission initiated items such as Amendments, the Comprehensive Plan, the LESA, etc. Previous Regulations dictated time frames for certain items to be heard within a certain time frame which may still warrant the scheduling of a fourth Tuesday meeting. As development became slower in the County and amendments had been completed, it became clear two meetings a month were not necessary. Ms. Brockman quoted the requirements for the holding of a fourth Tuesday meeting as currently explained in the Bylaws Article IV - Meetings, Section 4.1 – Regular Meetings. A policy should be adopted that defines the criteria for which this meeting may be set.

Mr. Chapman researched this subject in a few other jurisdictions. Policies tend to differ from area to area. Mr. Chapman cited a few examples. The holding of the second meeting should be determined by workload or if there is a meeting that may be pre-determined to be larger or of a more controversial nature.

Mr. Stolipher stated that the Planning Commissions role is to serve the Public. He believes the applicant should only be able request the second meeting if the agenda is full. The question would then be how and who would determine if the first Tuesday is full.

Ms. Brockman believes staff would be able to determine approximately how long an agenda item may take. The second meeting typically has been scheduled as a follow up on actionable items from the previous meeting.

Mr. Stolipher believes the only time an applicant may be able to request the fourth Tuesday meeting is if the first meeting agenda is full. This request would still have to go through Staff and the Planning Commission President.

Ms. Brockman suggested drafting a few sentences to be sent to Mr. Chapman to then be discussed at the next Planning Commission meeting. Once acceptable, a Policy will be made and attached to the Bylaws. Suggested language could be that a fourth Tuesday meeting may be called if an Agenda is full or if a timing issue is caused by the County, or if it is Planning Commission initiated.

6. Review and approval of the Planning Commission's Annual Report to the County Commission per WV Code §8A-2-11. The Planning Commission is required to make an annual report to the appropriate governing body concerning the operation of the planning commission and the status of planning within its jurisdiction.

Ms. Brockman provided an overview of the Annual Report. She asked the members if there were any items the Planning Commission would like to add to the report in the future. The Planning Commission needs to take action on this item and then forward to the County Commissioners.

Mr. Chapman asked if a summary of items could be shown in graph form to track trends.

Ms. Brockman stated that should not be a problem.

Mr. Fisher made a motion to approve the Annual Report. Mr. Phalen seconded the motion which carried unanimously.

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. No new report.
- Shiloh Citizens Association: Report on legal action in Supreme Court, Docket #15-1031 Possible Executive Session. No new report.

8. Planners Memo.

Ms. Brockman presented the Planners memo.

9. President's Report. None

10. Actionable Correspondence. None

11. Non-Actionable Correspondence. None

Mr. Chapman motioned to adjourn the meeting at 8:03 PM.