

Jefferson County Planning Commission
May 23, 2017
(Postponed from May 9, 2017)

The Jefferson County Planning Commission met on May 23, 2017 with the following Commission members present: Donnie Fisher, President; Steve Stolipher, Vice President; Gary Phalen, Wade Louthan, Gene Taylor, Secretary; Ron Thomas, Peter Onoszko, and Ray Bruning. Staff members present included Jennifer Brockman, County Planner; Jonathan Saunders County Engineer; Alex Beaulieu, Zoning Administrator; Nathan Cochran, Assistant Prosecuting Attorney; and Rhonda Greenholtz, Planning Clerk.

Mr. J. Ware was absent with prior notification.

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

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

- April 11, 2017

The minutes were approved with no objections.

2. Citizen Communications. None.

3. Request for postponement. None.

4. A Public Workshop was held for a Concept Plan (File# S17-05) for the H & G Contracting, LLC Property. The applicant requested approval for a proposed 10,640 sq. ft. retail building (proposed Dollar General) with associated parking on a total proposed 2.4 acre +/- lot (comprised of a 1.85 acre +/- portion of the 3.85 acre Parcel 23 and a 0.5 acre +/- portion of the 3.83 acre Parcel 32.2 to be merged). The property is located at 7174 Martinsburg Pike and is designated as Tax District: Shepherdstown (09); Tax Map: 7; portion of Parcels 23 and 32.2. Zoned: General Commercial and Residential Growth. Mr. Fisher apologized to the public for having to postpone the May 9, 2017 meeting due to an advertising error.

Mr. Fisher stated the purpose of this meeting is to discuss the Concept Plan only for the property as the rezoning of this property has already been discussed and approved. This meeting is to provide the public with information regarding the proposed Concept Plan and to determine if the plan will conform to the Zoning requirements; if it can be served by public services or if it can provide its own utilities, and if there any determining factors that would prohibit this property from being developed under the current Ordinance. A reminder was given that the Planning Commission cannot request a traffic study. These are requested by the WVDOH (West Virginia Dept. of Highways). All traffic questions are be deferred to them.

Ms. Jennifer Brockman pointed the property out on the projected graphic and showed the 75 foot portion of the parcel to the south of Parcel 23, which is zoned Residential Growth, which is intended to be merged with Parcel 23. The final delineation of the proposed lot will come

after the approval of the layout shown on the Concept Plan to avoid future lot line modifications to the plan.

Mr. Paul Raco, Consultant for the applicant spoke. This project is a proposed relocation of an existing Dollar General which is approximately 8,500 square feet and is located approximately ½ mile away to the east on Route 45 in the Old Potomac Market supermarket building. The proposed new building will be approximately 2,000 square feet bigger than the existing business. A petition to rezone the property to General Commercial was reviewed by the Planning Commission and determined to be consistent with the *Envision 2035 Comprehensive Plan*. This property is located within the Shepherdstown Preferred Growth Area and is shown on the Future Land Use map as Residential/Commercial. This recommendation was used by the County Commission to approve the rezoning to General Commercial. The site will have approximately 45 parking spaces and will meet the standards of the Ordinance.

Mr. Raco stated the most important aspect of the Staff Report is the portion that states the Office of Planning and Zoning and the Planning Commission's role is to determine if the proposed Concept Plan meets the existing Subdivision Regulation and Zoning Ordinance standards. Page 3 of 5 of the Staff Report states that "Staff has determined that the proposed Concept Plan meets the requirements of the Zoning Ordinance and the Subdivision Regulations". The Sheriff's Department and the Jefferson County Historic Landmarks Commission (JCHLC) had responded with no comments. No other outside agencies have submitted any comments as of this date. The Health Department and WVDOH approvals are required with the Site Plan which is the next step of the project. Multiple conversations with WVDOH and the Health Department have occurred. The site is to be served by a well and a septic system which is currently shown on the western edge of the property and will serve as an open green area. The stormwater management is shown on the eastern edge of the property and will be an open green area as well. The site has expanded to approximately 2.4 acres to accommodate these systems within the proposed green areas. The building footprint and the parking area are to be the only impervious areas on the site. The applicant believes the design of the site will meet all current Subdivision Regulations and Zoning Ordinance requirements, including landscaping. Mr. Raco offered to answer any questions.

Mr. Donnie Fisher opened the floor to Public Comment.

Mr. Martin Herbert, Resident, Chickory Court, Shepherdstown. Spoke in opposition to the proposed project citing that Dollar General does not fit into the Gateway of Shepherdstown and traffic is concern to residents in the area. He would recommend a traffic study be performed by the WVDOH prior to approval of Concept Plan.

Ms. Gindy Goff, Resident, Sycamore Hill Drive, Shepherdstown. Opposed to approval of the project citing traffic concerns.

Mr. Jeff Hertrick, Resident, Venice Way, Shepherdstown. Was present at a previous meeting and provided a photo of the view from the intersection of Venice Way and WV45. He is opposed to the project citing traffic concerns. Mr. Hertrick stated that he has been in contact

with Mr. Ken Clohan of the WVDOH and that Mr. Clohan had not seen the plans for this project until the day before this meeting. Mr. Hertrick met Mr. Clohan on the site and questioned if this qualified as a traffic study. Mr. Hertrick believes there could be another entrance location that would better suit this project.

Mr. Doug Horner, Resident, Scott Drive, Shepherdstown. Opposed to the proposed project and wishes to encourage the Planning Commission to not approve the plan until the WVDOH responds with a real traffic study determining the safety of the proposed entrance location.

Mr. Nathaniel Hitt, Resident, W. Washington Street, Shepherdstown. (Mr. Hitt is on the Shepherdstown Planning Commission but is speaking personally at this meeting as a resident.) This area is designated as a "Special Design Area" identified in the *Envision 2035 Jefferson Comprehensive Plan*. Mr. Hitt asked the question to the Planning Commission of how has this designation influenced the Concept Plan to date and how will it influence the plan moving forward? The Preferred Growth Area boundary surrounding Shepherdstown was approved by the Jefferson County Planning Commission on December of 2014. He believes the proposed project is inconsistent with the gateway to Shepherdstown and is opposed to the project.

Ms. Amanda Lewis, Resident, Perth Way, Shepherdstown. Ms. Lewis submitted a petition to the Planning Commission in opposition to the rezoning of the property in 2014. She had suggested planting trees to reduce the impact of the business and to possibly have a traffic light installed to address traffic safety concerns.

Mr. Fred Gates, adjacent property owner. Mr. Gates is opposed to the project citing traffic concerns. He also submitted pictures of the Dollar General recently constructed on Route 9 which is almost identical to the plan of the proposed project. He pointed out that sidewalks were provided in this location and requested that they be considered in this proposed new Dollar General. He suggested that a Public Hearing be held as the WVDOH review does not get aired publicly before their permit has been issued.

Mr. Robert Thatcher, Resident, Heatherfield Subdivision, Shepherdstown. Spoke in opposition to the project citing traffic concerns. A four way stop, traffic light or a left hand turn lane would improve traffic conditions.

Stephen Ayraud, Resident, W New Street, Shepherdstown. Spoke in opposition to the proposed project. Mr. Ayraud believes the concept plan does not conform to the *Envision Jefferson 2035 Comprehensive Plan* and that it presents an unacceptable view of a parking lot of cars to the road entering the Shepherdstown gateway. He also believes the proposed 16' tall pole sign along the road is unacceptable in a special design area.

Mr. Fisher closed the floor to Public comment.

Ms. Jennifer Brockman provided an overview clarifying that the staff and Planning Commission's role is to ensure the proposed Plan complies with local land use regulations and to provide direction to the applicant. The Planning Commission is required to provide

such direction related to a Concept Plan at this meeting or within 14 days of this meeting. She reiterated that the JCHLC and Sheriff's Department had no comments that would affect the design of the plan. The Corporation of Shepherdstown submitted a letter concurring that they were not in opposition to the well and septic as there currently are no public utilities on site. She also stated that currently the Ordinance does not require communication with the WVDOH at the concept plan stage. It does require that the WVDOH determine if a traffic study is required and, if it is required, that it be complete before the Site Plan is submitted. The WVDOH is the approving authority on the entrance location and would ensure that the location is safe for the public and will address concerns.

Ms. Brockman also explained the Special Design Area designation in the Comprehensive Plan. This recommendation of the Plan states that regulations should be developed to encourage limited access to WV 45 and to develop design standards for the corridor to create an attractive gateway to Jefferson County and the Shepherdstown area; however, to date, these regulations and standards have not yet been developed. She also explained that staff and the applicant had met on the proposed Concept Plan and changes to the plans had been made to ensure conformance with the local land use regulations before plans are brought before the Planning Commission. This plan is a Concept Plan only and final design will be addressed on the Site Plan. The Staff has determined that the plan does meet the Zoning Ordinance and Subdivision Regulations as presented and recommends approval.

Mr. Nathan Cochran, Assistant Prosecuting Attorney for Jefferson County, confirmed that West Virginia law provides the WVDOH control of virtually every aspect of the road design in placement of entrances. The WVDOH will decide, based on the existing and proposed conditions, if a traffic study is warranted. The general principal of the law is that if an applicant meets the requirements of the Ordinance, then it is a "ministerial act" and is required to be approved.

Ms. Brockman reminded the Planning Commission that action is not required by the Regulations to be taken at this meeting but is required within 14 days. A special meeting would then need to be called.

Mr. Paul Raco was given the opportunity to provide rebuttal. He stated that staff had explained and cited the Sections of the Ordinance and Regulations that he was intending to respond with. Mr. Raco stated that he met with the WVDOH on site in late December 2015 – early January 2016 in anticipation of selling a portion of this property for commercial development. Contact with the Health Department and WVDOH is advisable before marketing or selling property. The Concept Plan is not required to be sent to the WVDOH at this stage but was submitted to them by Ms. Brockman for early comment. Mr. Raco supplied a timeline of submittals to the WVDOH prior to the submittal of the Concept Plan to the Office of Planning and Zoning.

Mr. Wade Louthan asked about any beautification of the site for the citizens of Shepherdstown.

Mr. Raco responded that the septic area and stormwater management areas are to remain green areas. No trees are allowed in these areas. Landscape buffers are not required in front of a commercial site but street trees will be provided.

Mr. Peter Onoszko asked what the next step for the applicant is assuming this body approves the Concept Plan.

Mr. Raco responded the next step is the engineered Site plans be completed and submitted to the WVDOH, Health Department, the Department of Planning, Zoning and Engineering. He also briefly explained what each Department's review encompasses.

Mr. Onoszko asked if the Planning Commission approval of the Concept Plan means that the plan has been given the green light to proceed?

Ms. Brockman stated that the WVDOH and Health Department approvals are a condition of the final approval of the plan. If the WVDOH requires a traffic study it must be submitted with the Site Plan. Ms. Brockman informed the Planning Commission that a Concept Plan is valid for two (2) years.

Mr. Onoszko asked what would happen if the Site Plan was not submitted in that time frame.

Ms. Brockman stated that the project would have to start over again.

Mr. Louthan reiterated that, as legal had pointed out, the Planning Commission is bound to approve the Concept Plan as it meets all the requirements of the Zoning Ordinance and Subdivision Regulations.

Mr. Ron Thomas asked what would happen if water and sewer becomes available to the site within the next two years.

Ms. Brockman responded that the site would be required to hook up to the public utilities. She also noted that the Building Permit Office and the State Fire Marshall are also reviewing agencies.

Mr. Steve Stolipher thanked the public for attending and for the great comments made. He stated that the Planning Commissioner members made an oath to uphold the law and the applicant has met all the Regulations and the Ordinance Requirements, therefore the Planning Commission has no grounds to deny the Concept Plan.

Mr. Stolipher made a motion to approve the Concept Plan as presented. Mr. Ron Thomas seconded the motion. A vote was taken, which carried unanimously.

Mr. Fisher made an announcement that there is no further public comment for the remaining items.

5. A discussion and review of Historic Landmarks Commission's proposed draft amendment to the Jefferson County Zoning and Land Development Ordinance to improve historic and

cultural resource protections based on the recommendations of the *Envision Jefferson 2035 Comprehensive Plan* for the purpose of scheduling a public hearing was presented by Mr. Martin Burke through a PowerPoint presentation. Alex Beaulieu also presented proposed revisions to the Village Zoning District to clarify the application of the revised Conditional Use process.

Mr. Steve Stolipher made a motion to schedule a Public Hearing for the above agenda item to be heard at the July 11, 2017 Planning Commission to allow for advertisement. Mr. Wade Louthan seconded the motion which carried unanimously.

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

a) Active Litigation:

- Shiloh Citizens Association: Report on legal action in Supreme Court, Docket #15-1031 Possible Executive Session.

Mr. Cochran stated no new reports on this case.

7. Mr. Gary Phalen thanked the Legal staff for their support. Mr. Nathan Cochran stated he appreciated the Planning Commission for its willingness to follow the law.

8. Planner's Memo.

1) Outstanding Zoning Ordinance and Subdivision Regulation Amendments

a) Mass Events Ordinance (ZTA 14-02):

- CC Public Hearing postponed until summer 2016 – no action to date

2) Upcoming Zoning Ordinance and Subdivision Regulation Amendments

a) Historic Resource Demolition and Adaptive Reuse

- JCHLC working with staff on proposed language

b) Landscape Standards

- Stakeholder meeting with staff held – draft amendment in progress

c) Signage

- Including animated vs digital signs to be addressed; sign industry may need early input

d) Parking Standards

e) Subdivision Regulations Amendments

- Staff initiated amendments related to sections requiring frequent interpretations and issues, including but not limited to processing mergers/lot line adjustments; contents of minor subdivisions, etc.

3) Annual Planning Commission Training

- a) The County Commission requires the Planning Commission to have two hours of topical training each year. The last training was held in 2015 on the topic of “Aging in

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Place Planning's Role and Responsibilities". Staff will have possible topics to discuss at the meeting.

4) Upcoming PC meeting

Next Regular Meeting: June 13, 2017

9. President's Report. None

10. Actionable Correspondence. None

11. Non-Actionable Correspondence. None

Mr. Fisher motioned to adjourn the meeting at 8:35 PM with no objections.