

Jefferson County Planning Commission
April 11, 2017

The Jefferson County Planning Commission met on April 11, 2017 with the following Commission members present: Gary Phalen, Wade Louthan, Steve Stolipher, Vice President; Donnie Fisher, President; Ron Thomas, Peter Onoszko, and Ray Bruning. Staff members present included Jennifer Brockman, County Planner; Jonathan Saunders County Engineer; Nathan Cochran, Assistant Prosecuting Attorney; and Rhonda Greenholtz, Planning Clerk.

Mr. J. Ware and Mr. Gene Taylor were absent with prior notification.

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

1. New Planning Commission members Mr. Ron Thomas and Mr. Ray Bruning were welcomed. Introduction to new members were made by current members and staff.
2. Approval of the minutes from the following Planning Commission Meeting
 - March 28, 2017The minutes were approved with no objections.
3. Citizen Communications. None.
4. Request for postponement. None.
5. A Public Workshop was held for a Concept Plan for Grace Baptist Church by applicant Trustees of the Grace Baptist Church (File#S17-03). The applicant is proposing a 2 Phase Church Project. Phase 1 is to consist of a 6000 SF Church building on well and septic with a proposed gravel surface parking lot. Phase II will consist of the replacement of the western most parking area with a second 6000 SF Church building. The property is designated as Tax District: Middleway (07); Tax Map: 2; Parcel 2.6. Zoned: Rural; Size: 3.91 ac.

Ms. Jennifer Brockman gave an overview of the Public Workshop process and explained that this project is classified as a Minor Site Development. This next step after the acceptance of the Concept Plan is to submit a Site Plan which will be processed administratively. This project is located at the old Walls Nursery site on Charles Town Road (WV 115) near the Berkeley County line.

Ms. Lisa McCauley, Allegheny Surveys, Representative for the applicant presented the project. Ms. McCauley was present to answer any questions regarding the Concept Plan. Pastor Bush with the Grace Baptist Church was also present to answer any questions. Ms. McCauley spoke that the summary submitted speaks for itself. The full build-out of the site is shown on the Concept Plan. The construction will be phased as the Church will not be building both of the buildings at the same time. Each building is 6,000 sq. ft. The plan includes infrastructure consisting of parking and septic. The stormwater management pond is existing and will be slightly modified to meet the current requirements. There will be a landscape buffer along the western property line, street trees along WV 115, and unscreened buffer along the other property lines to the north.

Ms. Jennifer Brockman gave an overview of responses received from outside agencies regarding the Concept Plan.

- The Office of GIS noted that once the second building is constructed the 50' access easement will be required to be named as this will be the third addressable structure.
- The Jefferson County Historic Landmarks Commission provided information that there are no cataloged County Resources on this property therefore there are no objections.
- The West Virginia Department of Highways (WVDOH) has responded that they had received the plan and will comment at the Site Plan stage to determine if a traffic study is required. The Subdivision Regulations now defer this determination to the WVDOH.
- At this time, no other outside agencies have responded.

Ms. Brockman stated that this plan is in conformance with the Envision Jefferson County 2035 Comprehensive Plan and the Zoning and Land Development Ordinance. Staff therefore recommends approval of the Concept Plan.

The next step for this project is the submittal of a Site Plan which is administratively reviewed and approved.

Mr. Donnie Fisher opened up the floor to Public Comment. No Public Comment was made.

Mr. Fisher closed the floor to Public Comment.

Mr. Fisher made a motion to approve the Concept Plan. Mr. Wade Louthan seconded the motion which passed unanimously.

6. **Public Workshop** for a Concept Plan for Colonial Hills Phase 3A (File#17-06) by applicant KE Colonial, LLC (Formerly Mark-Colonial Hills, LLC). The applicant is proposing 61 Townhouse Units, open space and storm water management areas and the construction of associated utilities. The property is designated as Tax District: Shepherdstown (09); Tax Map: 8; Parcel 10. Zoned: Residential Growth; Size: a 7.92 acre+/- portion of the 27.15 acre parcel.

Mr. Steve Stolipher recused himself from this item citing conflict of interest.

Ms. Brockman presented an overview of the project. This project originally processed under the old Subdivision Ordinance and has an approved Community Impact Statement (CIS) to develop this areas as apartments. The CIS was amended to change the apartments to townhouses at this location. The previously approved and amended CIS has expired and therefore Phase 3A of the Colonial Hills development is required to start over. This Concept Plan is for Phase 3A only. The original Phase 3 which includes single family lots and the future lot for the apartments/townhouse and two commercial lots has been final platted,

recorded, and bonded. The Residential Growth zoning designation allows for the requested 61 townhouse units.

Ms. Brockman also gave an overview of the Public Workshop process and explained that this project is classified as a Major Subdivision. This next step for this project after the acceptance of the Concept Plan is to submit a Preliminary Plat which will require a Public Hearing before the Planning Commission after it has been reviewed administratively and staff has deemed it complete.

Ryan Perks, Gordon, Representative for the applicant spoke. The owner, Mr. Rick Fink, was also present. The balance of Phase 3 consists of 34 single family lots and has two access points to Potomac Farms Drive (Alternate 45), one of which connects to the existing Lowe Drive. To the east of the proposed Phase 3A site is the home of the future Shepherdstown Public Library which will access from the internal subdivision road known as Lowe Drive. An agreement has been entered into with the Library to share the stormwater management facilities. Portions of the quantity control will be on the Phase 3A site while the other portion will be on the Library site. This will cut down on infrastructure costs and also free up some space on both sites. The owner of Colonial Hills Phase 3A will build Lowe Drive from Potomac Farms Drive through Phase 3 so that the Library can construct their site as well as provide access to the townhome subdivision.

Ms. Brockman clarified that the stormwater management for Phase 3A is master planned as part of Phase 3. Some of the stormwater management shown is already designed and is part of the bonded portion of Phase 3 but will be slightly modified with this Concept Plan. An amendment will be made to Phase 3 while Phase 3A is being processed.

Ms. Jennifer Brockman gave an overview of responses received from outside agencies regarding the Concept Plan.

- WVDEP (West Virginia Department of the Environment) responded and had no outstanding concerns.
- The Office of GIS' biggest concern is the timing in the completion of Lowe Drive so that they can assure safe and timely response for emergency services. The Office of GIS encourages the connection be completed sooner rather than later in the project.
- The Jefferson County Historic Landmarks Commission wanted to encourage the petitioner to propose unit design variety within the project to maintain compatibility with Shepherdstown and the surrounding area.
- The Jefferson County Sheriff's office provided comments that emergency services will be provided.
- The WVDOH has amended the current entrance permit to increase to the 61 townhomes and is valid until the end of the year.

The project is in conformance with the standards in the Zoning and Land Development Ordinance and the Subdivision and Land Development Regulations with the exception of one outstanding comment, which is that townhouse developments require two entrances. This

plan shows only one entrance off of Lowe Drive. The applicant and staff will work together to determine if a waiver is required or if the design needs to be modified.

Mr. Fisher inquired to whom is responsible for making the connection to Lowe Drive.

Mr. Perks stated that the connection of Lowe Drive to the existing portion at the Library site is part of the original Phase 3 construction plan.

Ms. Brockman asked Mr. Perks if this road construction is part of Phase 3A.

Mr. Perks responded that it is not part of this Phase.

Mr. Fisher opened the floor up to public comment. No public comment was made.

Mr. Fisher closed the floor to public comment.

Mr. Peter Onoszko asked to see the aerial photograph of the site and commented that there appears to be potential connectivity leading onto the existing Potomac Farms Drive.

Mr. Perks explained that the applicant believes that the proposed design meets the required two entrances to the Phase 3A section because the townhouse development will be able to utilize Lowe Drive to the west to connect to Potomac Farms Drive and to utilize the extension of Lowe Drive to the east which goes past the Clarion Hotel to WV 480.

Mr. Gary Phalen made a motion to approve the proposed Concept Plan. Mr. Ron Thomas seconded the motion. A vote was taken which passed unanimously.

7. **Public Hearing** was held for a waiver to allow a two (2) lot Nonresidential Subdivision (File#PCW17-01) to advance to Final Plat stage and process as a Minor Subdivision (Section 20.201B). The applicant is requesting to be able to create an approximate 1.5 acre parcel and a 2.25 acre parcel to market and sell to a commercial entity. The property is designated as Tax District: Shepherdstown (09); Tax Map: 7; Parcel 23. Zoned: General Commercial; Size: 4.01acre.

Ms. Brockman stated two errors were found in the staff report.

- The proposal is to create two lots -- approximately 1.5 acres and 2.5 acre (not 2.25 acres) for a total of approximately 4 acres.
- The Zoning designation for this property is General Commercial. This property was rezoned from Residential Growth to General Commercial in 2015 which is in conformance with the new Envision Jefferson 2035 Comprehensive Plan.

Ms. Brockman apologized for not catching those errors earlier.

Ms. Brockman provided a brief overview of the request. Historically there were no provisions in the Regulations for a commercial property to process as a Minor Subdivision.

She briefly explained the Minor Subdivision process to the new members. The Regulations currently allow a nonresidential development to process as a minor subdivision only if it is located in an approved industrial park or existing major non-residential subdivision. Because this property is currently undeveloped, it would be required to process as a Major Subdivision.

The applicant is requesting a waiver from this provision and to be allowed to process under the Minor Subdivision process, which means it would be administratively approved other than this meeting. Typically a major subdivision process requires a Preliminary Plat be submitted showing all the construction documents (roads, water, sewer, stormwater management, etc.). This property is proposed to have onsite well and septic and the stormwater management. No off-site infrastructure is proposed. An entrance will be shared by the two lots off of WV 45 and will require WVDOH approval. If approval of this waiver is granted by the Planning Commission, the Final Plat will be administratively approved. However, as they are commercial lots, a Concept Plan and, potentially, a Site Plan will come before this body for approval for each lot. Staff has no issues with the concept or this waiver due to the fact that there is no off-site infrastructure; however, if the Planning Commission approves this request, staff asks that the access easement be recorded on the Final Plat or at the same time, to make it clear that access is being provided.

Mr. Mike Shepp, representative for the applicant spoke. Mr. Paul Raco, consultant for the applicant was also present. Mr. Shepp stated that the Preliminary Plat is intended to address design and construction elements of the subdivision process. There are no design elements for the subdivision of this property as all infrastructure will be on site. It has the same requirements as the Minor Subdivision. WVDOH entrance permit as well as Health Department approval will be required. The Concept Plan for the proposed lots is scheduled to be heard at the May 9, 2017 Planning Commission meeting.

Mr. Donnie Fisher asked if the applicant would be willing to record the access easement with the Final Plat per the Staff recommendation.

Mr. Shepp agreed that the access easement will be recorded with the Final Plat.

Mr. Gary Phalen asked for confirmation that the proposed use is permitted in the General Commercial zoning category.

Ms. Brockman confirmed that this property was included in the Shepherdstown Urban Growth Boundary as part of the Envision Jefferson 2035 Comprehensive Plan. This property was rezoned after the adoption of the Comprehensive Plan.

Mr. Paul Raco clarified that the exact final size of the proposed 1.5 acre lot will be determined after the Concept Plan is presented at the May 9, 2017 Planning Commission meeting to ensure there is adequate area to meet all of the Subdivision Regulation requirements. A Concept Plan is required for any commercial development greater than 5,000 sq. ft. Following approval of the Concept Plan, the Site Plan will be administratively

reviewed and approved. Mr. Shepp stated that the stormwater management and other specific design elements will be included on the Site Plan.

Mr. Fisher opened the floor to Public Comment. He reminded citizens that comments are to address the Waiver to advance to Final Plat only. Future uses and the Concept Plan will not be addressed at this meeting.

Mr. Jeff Hertrick, Resident of Venice Way, spoke. Mr. Hertrick presented pictures of the adjoining property road access. Currently only two households use Venice Way. There is a potential of over a hundred homes to be built in the area. Mr. Hertick is concerned with future traffic and the location of the proposed easement and opposes the granting of this waiver.

Mr. Martin Herbert, Springs of Shepherdstown resident, spoke. Mr. Herbert believes the rezoning of this property did not occur properly and was not in the Envision Jefferson 2035 Comprehensive plan initially. Mr. Herbert is concerned with the lack of transparency as granting this waiver would allow this project to process administratively. He asked that the Planning Commission members consider that by doing this, the citizens would not be able to voice their concerns. He also is opposed to the granting of the waiver.

Mr. Doug Horner, Heatherfield resident, spoke. The entrance to the Heatherfield subdivision is approximately 40-50 yards west of the proposed entrance. The potential impact on wetlands should be considered. Site distance is of concern as it currently is obstructed by vegetation to the west and feels it is a very unsafe location. Traffic is frequently heavy and Mr. Horner concurs with the past two speakers, as this is primarily a residential area and encourages the Planning Commission to vote against it.

Mr. Fred Gates, Gates Associated and owner of an adjoining property, spoke. There is approximately 278 acres that has had the access to WV 45 improved. The entrance was built specifically for this access. Mr. Gates believes the information was coyly presented and incomplete. He does understand that the waiver is the only item to be addressed at this meeting. Mr. Gates showed the entrances that the WVDOH required for access to the property owned by him. The construction of another entrance and any road improvements are of concern to him and suggested that the site be accessed internally from the existing entrance.

Ms. Brockman informed the commission that written comments had been received and are a part of their package.

Mr. Shepp was given an opportunity to rebut citizen comments. The public hearing item at this meeting related to the requested waiver to advance to final Plat, not the Site Plan. No engineering is proposed as a part of this subdivision. Mr. Shepp stated he does not know if the property owner intends to develop the Residential Growth land to the south of this property or how it would be accessed. There was no lack of transparency in the rezoning of the property. The opportunity was previously had for the public to state their concerns. The

WVDOH is the determining authority on the entrance. Mr. Raco stated that he has reached out to the WVDOH and they will comment when the Site Plan has been submitted to their office. The WDOH and Health Department approvals will be required at that stage.

Mr. Shepp stated that the Concept Plan will be presented at the Planning Commission meeting to be held on May 9, 2017 and encourages the public to voice their concerns at that time.

Ms. Brockman stated that the Concept Plan will lead to the Site Plan which will include construction documents.

Mr. Wade Louthan asked if the Planning Commission would be notified if the applicant stepped outside of the Minor Subdivision criteria. Ms. Brockman confirmed that this would happen and noted that if the road is constructed back to the Residential Growth zoning, it would be required to process as a major subdivision.

Mr. Phalen restated that there is an opportunity for public input into the Concept Plan at the May 9, 2017 Planning Commission meeting.

Ms. Brockman explained the reason for the order of the applications related to the waiver and the Concept Plan.

Mr. Fisher restated that the approval of the entrance is deferred to the WVDOH as they are the approving authority.

Ms. Brockman stated that the acreage on the lots are approximate and dependent on Health Department requirements for the septic system, the well location and the entrance permit approval.

Mr. Steven Stolipher made a motion to approve the waiver to process as a Minor Subdivision with the condition that the easement be recorded with this subdivision.

Mr. Phalen seconded the motion which passed unanimously.

8. 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.

9. Planners Memo.

- The LESA/Cluster Amendment was approved on March 16, 2017 and is in effect.

Minutes
Planning Commission
March 28, 2017

- The extension of vested properties by SB 595 was approved by the County Commission until July 1, 2020.
- A Public Hearing was held by the County Commission regarding the Rezoning of Middleway Market and it was left open until April 6, 2017 at which time it was approved.
- An update on the amendments to the Zoning Ordinance and Subdivision Regulations was given.

10. President's Report. None

11. Actionable Correspondence. None

12. Non-Actionable Correspondence. None

The next Planning Commission will be held on May 9, 2017

Mr. Fisher motioned to adjourn the meeting at 7:55 PM with no objections.