

Jefferson County Planning Commission  
July 11, 2017

The Jefferson County Planning Commission met on July 11, 2017 with the following Commission members present: Steve Stolipher, Vice President; New Planning Commission Member, Jack Hefestay, Wade Louthan, Gene Taylor, Secretary; Peter Onoszko, Ron Thomas and Ray Bruning. Staff members present included Jennifer Brockman, County Planner; Jonathan Saunders, County Engineer; Nathan Cochran, Assistant Prosecuting Attorney; Alex Beaulieu, Zoning Administrator and Rhonda Greenholtz, Planning Clerk

Mr. Donnie Fisher and Mr. J Ware were absent with prior notification.

Mr. Steve Stolipher presided over the meeting in the absence of Mr. Fisher. He called the meeting to order at 7:00 PM.

An introduction of new Planning Commission Mr. Jack Hefestay was made. Mr. Hefestay replaced Mr. Gary Phalen seat on the Board.

1. Approval of the minutes from the following Planning Commission Meeting  
June 13, 2017. The minutes were approved with no objections.
2. Citizen Communications. None.
3. Request for postponement. None.
4. **Public Hearing:** Public Hearing on the proposed text amendment to the Jefferson County Zoning and Land Development Ordinance, File #ZTA 16-02. The text amendment, in accordance with WV Code §8A-7-13 proposes revisions and additions to multiple sections of the Zoning Ordinance including Section 2.2, Terms Defined; Section 3.4 Boards and Commissions; Section 4.6, Distance requirements; Section 4.14 Historic Preservation; Section 5.10, Village (V) District; Section 8.19, Adaptive Reuse of Historic Structures; Section 10.4, Signs Requiring a Zoning Permit and Appendix C: Principal Permitted and Conditional Uses Table.

Mr. Stolipher provided an overview of the process and procedures for text amendments. This amendment was prepared in cooperation with the Jefferson County Historic Landmarks Commission (JCHLC) and the Jefferson County Zoning Administrator. At their June meeting, the Planning Commission voted to send the draft directly to a Public Hearing.

Mr. Martin Burke with the JCHLC and Ms. Alex Beaulieu, presented the text amendment.

Mr. Stolipher opened the floor to public comment.

Ms. Cynthia Rider voiced concerns that if her property is designated as a core battlefield she would not be able to create 2 homesteads on her property and would not be able to protect wildlife.

Mr. Mike Boltz, Co-Owner of Far Away Farms, LLC spoke in opposition of the proposed text amendment because it would limit the development of his land.

Mr. Mark Dyck, Gordon, Civil Engineers. Mr. Dyck stated that while he appreciates the direction of historic preservation in Jefferson County, he believes that this Ordinance is a huge taking on the land owners in Jefferson County and offered the following comments:

- A map identifying the location of the Category I and Category II facilities as well as battlefields should be included in the Amendment.
- Landowners need to be aware of the new restricted protection areas that will prevent them from doing what historically they could do on their property and they need to be aware of these changes.
- Battlefield locations should be defined on a map.
- The JCHLC has the sole authority to designate the Class I and Class II Category areas. The County Commission and the Planning Commission have no authority over the JCHLC. However well-intentioned they are, they have no oversight making it difficult for property owners to maintain their rights.
- Definitions added appear to be more narrative in form and not needed.
- Property owners should receive notification on new restriction to their properties.
- This Ordinance appears to make it more difficult for adaptive reuse.

Mr. Dyck will be providing written comments to the Planning Commission after this meeting.

Mr. Stolipher closed the floor to public comment and stated that public comment would remain open for two weeks.

5. **Public Hearing:** Request by applicant Roderick Planes, LLC / Aspen Greens Phase IIB (File #PCV17-01) to be represented by Gates Associated, Inc. for a variance from Article 6, Section 6.3 of the 1979 Jefferson County Subdivision Ordinance which requires a public hearing within 24 months of the previous phase. The applicant is requesting a 36-month extension from June 9, 2017 to June 10, 2020, to advance through the Final Plat public hearing for this development. Property location: Northeast of the intersection of Old Country Club Road with Flowing Springs Road. The property is designated as Tax District: Charles Town (02); Tax Map: 4; Parcel: 19; Size: 110.71 acres; CUP approved for 203 lots total; Zoned: Rural (R).

Ms. Jennifer Brockman provided some background on the project for the new Planning Commission members. She explained that this project had not received Preliminary Plat approval at the time that Senate Bill 595 went into effect and therefore did not qualify to receive this extension. This is the only project that did not qualify for this extension.

Mr. Fred Gates, Representative for the applicant, and applicant, Mr. Maurice Gladhill were present. Mr. Gates spoke that the project is continuing to be held up due to the economy and lack of available utilities. Major improvements have been made to Old Country Club and Flowing Springs Roads where the project is located.

Mr. Stolipher opened the floor to Public Comment.

No Public Comment was made.

Mr. Gene Taylor made a motion to approve the extension until June 10, 2020. Mr. Ron Thomas seconded the motion. A vote was taken, which passed unanimously.

6. **Public Hearing:** Request by applicant Family Adventure Resort, LLC. (File#PCW17-03) to be represented by P.J. Raco Consulting, LLC, for a waiver from Appendix B, Table 2.2-1, Roadway Design Standards requiring a 9% maximum road grade for Non-Residential/Industrial & Commercial Streets to allow an increased slope from Alstadts Hill Road to the Clarion Hotel (formerly Cliffside) provided the WVDOH approves the connection. The applicant is also requesting a waiver from Appendix B, Section 2.5.I, Off-Street Parking Standards requiring parking area access driveways and entrances leading from the public road or subdivision street, and also the parking area internal access drives connecting physically separated parking bays, to not exceed an 8% grade. The applicant is only citing this section in the event the road would be classified as an internal access road. The property is designated as Tax District: Harpers Ferry (04); Tax Map: 9; Parcel: 66; Size: 13.95 acres; Zoned: Residential-Light Industrial-Commercial (R-LI-C).

Mr. Paul Raco, PJ Raco Consulting, Representative for Family Adventure Resort, LLC presented the request. He stated that the purpose of the request is to allow the creation of a connection from Alstadts Hill Road to the site of the new Harpers Ferry Clarion Hotel. This road will not provide direct access to or from WV Route 340. Most of the road is inside the WVDOH right-of-way. Mr. Raco stated that through a discussion with the Engineering Department, a waiver was not necessary as the WVDOH will be approving the entrance permit for this location. The main objective of this connection is to allow River Riders' patrons to be able to have internal access points to the Clarion Hotel without having to exit or enter via Route 340.

Mr. Jonathan Saunders, County Engineer, presented the Engineering Staff report which recommended granting the waiver request with the condition that the maximum slope be limited to 10%.

Mr. Stolipher opened the floor to Public Comment, no Public Comment was made.

Mr. Stolipher closed the floor to Public Comment.

Mr. Peter Onoszko made a motion to approve the waiver as presented contingent upon receiving WVDOH approval. Mr. Wade Louthan seconded the motion, which carried unanimously.

7. Request by staff for Planning Commission decision as to whether a Final Plat for the Stickel Minor Subdivision, which was approved by the Planning Commission on August 22, 1989 but never recorded, is still valid under the 1979 Subdivision Ordinance or if the current property owner would need to process under the current Subdivision Regulations currently in effect. The property is designated as Tax District: Charles Town (02); Tax Map: 14; Parcel: 4.9 and 4.12. Size: Parcel 4.9 contains 8.048 acres and Parcel 4.12 contains 5.089 acres; Zoned: Rural (R).

Mr. Samuel Byrer, Attorney and Mr. Rusty Morgan, Property Owner, were present to address the Planning Commission. Ms. Beaulieu provided an overview of the request and stated that Mr. Byrer originally contacted the Office of Planning and Zoning when his client, Mr. Morgan, approached him about selling one of his lots. Mr. Byrer was unable to locate the subdivision plat in the courthouse. Staff reviewed the subdivision file (#89-31) and noted that the original plat, which was reviewed under the 1979 Subdivision Ordinance, as amended, received approval by the Planning Commission on August 22, 1989 and approval from the Director of Planning on February 21, 1990. Ms. Beaulieu stated that Mr. Byrer was able to provide documentation that the parcels had been taxed as two legal lots since 1992. She noted that under the 1979 Subdivision Ordinance, final plats were required to be recorded within 90 days of approval. She concluded that either the plat was never recorded or perhaps the plat was indexed incorrectly.

Ms. Beaulieu requested that because the 90 day timeframe expired, the Planning Commission determine whether or not the original approvals under the 1979 Subdivision Ordinance, as amended were still valid or if the property owner would need to submit a subdivision plat under the current Subdivision Regulations. Ms. Beaulieu also noted for the record that Staff identified a few minor errors on the plat. She also stated that it appeared the surveyor's signature was a copy and recommended that should the Planning Commission determine the original approvals to be valid, that the surveyor, Mr. Michael Shepp, sign the plat with an original signature.

Mr. Steve Stolipher made a motion that the referenced Minor Subdivision was legal under the 1979 Subdivision Ordinance, as amended and could be recorded under the original approvals. Mr. Ray Bruning seconded the motion, which carried unanimously.

8. Staff request for clarification on the revised cluster provision in Section 5.7D.2 of the Zoning Ordinance amended March 16, 2017 (discussion and possible action).

Ms. Beaulieu presented the request for clarification stating that as property owners have been trying to determine whether or not the revised provisions provide them with additional development rights, Staff realized that the amended language in the Zoning Ordinance may not be clear. Staff would like clarification from the Planning Commission as to whether the intent of the Ordinance is to calculate the 50% green space based on the acreage which existed in 1988 or if the 50% green space should be calculated based on the existing acreage at the time of application.

Discussion ensued. The Planning Commission determined that the intent of the revised cluster provision was to retain 50% of the land calculating acreage based on the total available in 1988. The Planning Commission directed Staff to draft an amendment that would allow property owners who cannot provide 50% green space another option for additional density.

9. 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 there are no new reports on this case.

10. Planners Memo.

- A Roundtable discussion for the proposed draft Subdivision Regulations meeting is scheduled for July 25, 2017 at 3:00 PM in the Old Charles Town Library meeting room. Planning Commission members are permitted to attend but it is not mandatory and must not result in a quorum. The first round of Amendments are for Boundary Line Adjustments, Family Transfers, Site Plans and Final Plat Checklist. Further edits and the re-organization of the Amendments will be heard at a later date.
- Quarterly reports and a report on the implementation of the *Envision 2035 Jefferson Comprehensive Plan* will be presented at the next Planning Commission meeting.
- The topic and date of the Annual Planning Commission training is to be determined.
- Upcoming PC meeting

Next Regular Meeting: August 8, 2017

Minutes  
Planning Commission  
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11. President's Report. None

12. Actionable Correspondence. None

13. Non-Actionable Correspondence. None

Mr. Stolipher motioned to adjourn the meeting at 8:10 PM with no objections.