

Meeting Minutes
Jefferson County Planning Commission
August 13, 2019

The Jefferson County Planning Commission met on August 13, 2019 with the following Commission members present: Donnie Fisher, President; Steve Stolipher, Vice President; Wade Louthan, Secretary; Ralph Lorenzetti, County Commission Liaison; Jack Hefestay, Ron Thomas and Ray Bruning. Staff members present included: Jennifer Brockman, County Planner; Jonathon Saunders, County Engineer; Alexander Beaulieu, Zoning Administrator; Nathan Cochran, Assistant Prosecuting Attorney and Rachael Burke, Planning Clerk.

Mike Shepp and J Ware were absent with prior notification.

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

1. Approval of the July 09, 2019 Meeting Minutes: The meeting minutes were approved with no objections.
2. Citizen Communications. None.
3. Request for postponement. None.
4. **Public Hearing:** Request by Ancient Oaks Estate (File #: 19-11-PCW). Applicant is requesting a waiver from Section 24.113.B.10 of the Subdivision and Land Development Regulations to waive the Preliminary Plat requirement for an Archaeological Study. The property is designated as Tax District: Middleway (07); Tax Map: 20; Parcel: 8; Zoned: Rural; Size: 43.96 acres.

Ms. Brockman reviewed the history of the project, including the approved Concept Plan and the waiver to allow the greenspace to have a separate entrance on Willingham Road. She stated this is a cluster subdivision and indicated where the preserved area will be located. The Preliminary Plat was approved conditionally by the Planning Commission after the Public Hearing provided the Archaeological Study requirement was addressed. She stated the applicant has been in contact with State Historic Preservation and they stated they have no existing study on record for this property and the JCHLC also had not stated any concerns. She stated that a Phase I Archaeological Study requires extensive field work and that the Planning Commission may consider rewording this during the text amendments. The applicant is asking for this requirement waived for the Ancient Oaks project.

Surveyor, Mike Roberts, spoke on behalf of the applicant and Mr. Boyd, owner of property was present as well. Mr. Roberts stated that letters were sent to the required outside agencies, including the Historic Landmarks Commission and he thought this satisfied the requirement. In his research he found that the requirements for a Phase I Archaeological Study are quite expansive and not overly clear from the state level.

Mr. Lorenzetti asked if Mr. Roberts had walked the property and if he had located any cemeteries. Mr. Roberts explained the area where the houses will be built is a tillable field and there has been no archaeological elements or evidence of a graveyard found during a field run topographic survey they completed every 50 yards.

Mr. Fisher opened the floor to public comment. The following people spoke:

- David Tabb, resident of Jefferson County, expressed concern that if the property was built on that any potential historic relevance would no longer be relevant and referenced Article 43CFR-7.

Mr. Fisher closed Public Comment.

Mr. Stolipher moved to approve the waiver as presented by the applicant; Ray Bruning seconded. The motion was unanimously approved.

5. **Public Hearing:** Request by Frances & Edward Kurz (File #: 19-12-PCW). Applicant is requesting a waiver from Section 20.201.A.2 that requires a 50' access easement, for both entrances off of Middleway Pike. The property is designated as Tax District: Middleway (07); Tax Map: 19; Parcel: 27 & 37.2; Zoned: Rural; Size: 12.2 & 4 acres.

Ms. Brockman reviewed the location and explained the request. She explained that the neighboring property, that shares the 30' access with Parcel 27, is where the Planning Commission recently lifted the single family restriction for a proposed winery. She explained Foxwood Farm Drive, in a 20' access easement, currently provides access to 3 houses and has the potential to serve 2 more lots/houses on Parcel 37.2 under the Minor Subdivision process, if there is a 50' access easement. Due to the required setbacks and the existing houses, the waiver may be a reasonable request for the 20' easement. She explained that the 30' access could be widened to meet the 50' for subdivision purposes if they move the one small shed.

Applicant, Mrs. Kurz presented her request and why she needs the waivers. She said that Trixie Willis, from the West Virginia Department of Highways, had been on site to review site lines.

Mr. Fisher opened the floor to public comment.

The following people spoke:

- David Tabb who stated that Parcel 27 should not have issues expanding the access. He is concerned about setting precedence for future waivers presented to the commission.

Mr. Fisher closed Public Comment.

Ms. Brockman explained the maximum number of lots that can access either access easement under the Minor Subdivision process 5. Therefore we would only allow 2 additional lots on Foxwood Farm Drive, unless they came back for another waiver.

Mr. Stolipher made a motion to grant the waiver to allow 1 additional lot from Parcel 37.2 to access the 20' access easement containing Foxwood Farm for Parcel 37.2. Mr. Fisher clarified the motion to deny the waiver for Parcel 27 and approve the waiver for Parcel 37.2, restricting it to 1 additional lot to access Foxwood Farm Drive. Ron Thomas seconded the motion, which carried unanimously.

Mr. Stolipher recused himself for the upcoming agenda item.

6. **Public Hearing:** Request by Burr Park Lot 16 (Holtzman Oil Corp.) (File #: 19-13-PCW). Applicant is requesting a waiver from Section 22.208A and Appendix B Section 10.6 of the Subdivision and Land Development Regulations that require sidewalks along the road right-of-way (Wiltshire Road and War Admiral Boulevard) for non-residential site development. The property is designated as Tax District: Charles Town (02); Tax Map: 1; Parcel: 69 & 69.1; Zoned: Industrial Commercial; Size: 5.02 total acres.

Ms. Brockman explained the location and did a brief overview of the request.

Todd Heck, with Gordon, spoke on behalf of the applicant. He explained the need for the waiver due to the location of the gas station related to the road right-of-ways and reviewed the proximity to the Route 9 bike path/sidewalk across Wiltshire Road. He compared this request to that of Blossman Gas which is also in Burr Industrial Park.

Mr. Lorenzetti brought up the concrete sidewalks that you typically see around a convenience store. Mr. Heck passed around diagrams of the proposed structure and site layout and noted that this is an administratively reviewed site plan so the Planning Commission had not seen this project previously and that Concept Plans are not required in the Burr Industrial Park.

The Planning Commission discussed future pedestrian activity within the surrounding areas with staff.

Mr. Fisher opened the floor to Public Comment.

The following people spoke:

- David Tabb, concerns with proximity to current trail and traffic due to people cutting across at this point. Suggested putting sidewalk on the Wiltshire side.

Mr. Fisher asked for clarification for last approved waiver, Blossman. Ms. Brockman explained that the Planning Commission approved the Blossman, Inc. waiver and did not require an easement because of the large DOH right-of-way area.

Mr. Fisher explained that a sidewalk may not be a bad idea to access this convenience store due to current pedestrian traffic in this area in part related to the WV DOH bike path that intersects with Wiltshire on the south side of WV 9 and then follows Wiltshire to the north side of WV 9.

Planning Commission discussion about consistency. They asked applicant if willing to have easement on the Wiltshire Road side.

Mr. Heck does not see an issue with an easement so that a future trail system or path would allow more access to the store.

Mr. Thomas asked about providing a 10' easement on the War Admiral Boulevard side and Mr. Heck explained there is already 145' of DOH ROW which could accommodate a future trail.

Mr. Thomas made a motion to approve the waiver in regard to the sidewalk construction, but not the easement. Mr. Hefestay seconded the motion. Mr. Fisher clarified the motion approving the waiver of sidewalk construction but asking for a 10' easement along both sides of the property.

A vote was taken: 5 for and 1 against (Ray Bruning).

7. **Discussion and Possible Action:** for proposed text amendment (ZTA19-01) regarding proposed revisions to Article 2 Definitions; Article 8, Supplemental Use Regulations;; and Appendix C, Principal Permitted and Conditional Uses Table. The amendment proposes to create a process to establish Special Event Facilities in the Rural, Residential Growth, and Village zoning districts.

Ms. Beaulieu provided an overview of the public comments received. The Planning Commission made revisions to the proposed text in response to public comment. The Planning Commission's recommended revisions are highlighted in yellow (see attached).

Mr. Stolipher made a motion to incorporate Dr. Gibson's recommendations into the amendment, with the exception that his recommendation to require the structure to be used part time for farm activity be excluded. Mr. Thomas seconded the motion. Discussion ensued.

Mr. Stolipher amended his motion to include that new structures be set back 75' from all property lines; that a site plan is not required for any agricultural use on a property with the farm use status; and that new structures on parcels less than 20 acres are required to process a Concept Plan. Mr. Thomas seconded the motion.

Mr. Fisher restated the motion, noting that the Planning Commission found the text amendment to be consistent with the Comprehensive Plan and moved to forward the revised text amendment to the County Commission for the purpose of scheduling a public hearing. The motion carried unanimously.

Please see the attached for the full text amendment edits to be submitted to the County Commission.

Ms. Beaulieu stated she would submit an agenda request to be on the August 29, 2019 County Commission meeting for the purpose of requesting a Public Hearing to be scheduled.

8. **Review and Approval:** of the Planning Commission's FY 2019 Annual Report to the County Commission per WV Code §8A-2-11. The Planning Commission is required by State Code 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. (Distributed at the Meeting).

Ms. Brockman explained the new digital submission process changes in 2019 and that staff is still working to develop a report that can be generated by the new system. She asked if the Planning Commission would like the format of the report modified before sending it to the County Commission or can it be forwarded at this time?

Mr. Stolipher made a motion to approve the 2019 Annual Report to the County Commission as written; Donnie Fisher seconded the motion. The vote carried unanimously.

9. **Reports from Legal Counsel.** Mr. Cochran provided an update of the lawsuit related to the City of Charles Town request to annex a large area within their Urban Growth Boundary. The County Commission declined the request and the city appealed to the West Virginia Supreme Court. His briefing is due in September to appear before the WV Supreme Court. The city believed they could annex through the Minor Boundary Adjustment process found in the WV Code. He explained there is a statute that addresses Minor Boundary Adjustments without County approval, but the County does not think it applies in this case. The County believes that the City can only do this if they had public input from the people being annexed. The issue before the Supreme Court is whether they could annex without asking the residents. Mr. Cochran's view is that they either could be asked or an election could take place.

10. Planner's Memo: Ms. Brockman explained that the PC Committee met with the top candidate for the Land Use Regulation Update RFQ to discuss the proposed scope of work. Staff received a scope and cost estimate which will be put on the August 29, 2019 County Commission agenda. She requested Planning Commission representation for the County Commission meeting.

11. Actionable Correspondence. None.

12. Non-Actionable Correspondence: None.

Mr. Stolipher closed the meeting at 8:53 PM.