

Meeting Minutes
Jefferson County Planning Commission
September 08, 2020

The Jefferson County Planning Commission met on September 08, 2020 with the following Commission members present: Mike Shepp, President; Donnie Fisher; Vice President; Wade Louthan, Secretary; Ralph Lorenzetti, County Commission Liaison, Jack Hefestay, Steve Stolipher, Ron Thomas and Shane Roper. Staff members present included Jennifer Brockman, County Planner; Jonathan Saunders, County Engineer; Nathan Cochran, County Attorney; Alexandra Beaulieu, Zoning Administrator; and Rachael Burke Planning Clerk.

J Ware was absent without prior notification.

By order of the President, the Planning Commission meeting was held virtually via ZOOM. Access information was made available on the agenda and packet, which were posted to the County website.

Mr. Shepp called the meeting to order at 7:04 pm. Mr. Shepp verified we had a quorum at the start of the meeting.

1. Introduction of new Planning Commission member, Shane Roper. Welcome!
2. **Minutes:** Approval of the August 11, 2020 meeting minutes. Approved as submitted.
3. **Citizen Communications:** Citizens were able to sign up for this item utilizing the chat function in ZOOM prior to the commencement of the meeting. There were no citizens signed up to speak.
4. **Request for postponement.** None.
5. **Public Hearing:** Smartlink, LLC. submitted a Concept Plan for AT&T to build a 199 ft. monopole Cell Tower (195' monopole with a 4' lighting rod) which will include 6 antennas and a 3,600 sq. ft. fenced compound on a vacant parcel located on the corner of South Childs Road and Leetown Road. The property is designated as Tax District: Middleway (07); Tax Map: 25; Parcel: 11.2; Zoned: Rural; Size: 17 acres (File #: 20-4-SP).

Ms. Brockman asked who was present for the project. Christopher Burns, AT&T introduced himself and fellow staff and Engineers representing the project.

Ms. Brockman did an overview of the applicants' request, including items from the Concept Plan submission: Coverage area comparison map, balloon tests/photo simulation and she reviewed the itemized requirements for Concept Plan. She also explained Historic Landmarks submitted a letter and NEPA report, which stated there was not any significant structures within the area of impact. She brought up that the Planning Commission should discuss the required fall radius and landscape buffer along the fencing.

Mr. Christopher Burns, applicant and AT&T representative, explained that three other wireless carriers could co-locate on this monopole. This location was chosen for multiple reasons. He reviewed the coverage gaps to the West of Charles Town and stated this pole would remedy that gap, including improving E911 services and First Net coverage, which is intended to prevent communication problems in the event of a disaster. He stated that the NEPA Report (over 200 pages) Exhibit J was done to ensure this project would not affect historic or environmental items within the area. He emphasized the need for emergency and non-emergency coverage.

Mr. Shepp opened the floor to public comment. No one was signed up to speak. Mr. Shepp asked if the Planning Commission had any questions about the request.

Mr. Hefestay asked about the 100' height maximum vs the requested height. Mr. Burns offered to provide further maps at the other heights. He explained the best coverage is obtained at this height and also touched on FAA guidelines.

Mr. Shepp explained that a variance from the 100' requirement in Rural zoning was approved by the Board of Zoning Appeals. Ms. Brockman stated that in the Industrial Commercial Zone, towers can be 199' and that this language was drafted in 2012. She also mentioned not a lot of towers have processed under this new language. There are other 199' towers in the County that pre-date the current Ordinance.

Mr. Hefestay asked about the buffer/landscape.

Mr. Burns explained that they didn't propose landscaping but are willing to install it. He also mentioned that they are within the required setbacks and reviewed the fall radius technology and how the tower is designed to break at break points and for it to fall onto itself; Thus, the fall zone is could be reduced by more than half.

Ms. Brockman also mentioned a written comment that was received after the packet deadline, but was e-mailed to the members on the date of the meeting as a hand out (from Rob Aitcheson), which stated that the tower location is within a Civil War study area.

Ms. Brockman stated that the required fall zone is 110% of the Tower height and generally an easement is provided to ensure that the owner does not put something within the radius.

Mr. Burns clarified a shovel study was conducted for 17 locations on the site, less than 10 ft apart that analyzed the dirt as far back as the Mesozoic era; and that no historic artifacts were found.

Mr. Thomas asked about what the landscaping preference is. Ms. Brockman stated it was at the commissions discretion. He also asked Mr. Burns about their willingness to adhere a landscape buffer along the two roads.

Mr. Burns advised they would be willing to implement that.

Mr. Thomas made a motion to accept the Concept Plan as submitted, to include a landscape buffer 10' wide and 6' tall along the sides that face S. Childs Road and Leetown Road. He also requested that the easement be established for the fall zone of the monopole tower. Mr. Louthan seconded the motion. A vote was taken: 6 in favor; 2 opposed (Jack Hefestay and Ralph Lorenzetti).

6. **Public Hearing:** Request by applicant, Townhomes Rental, LLC., for a waiver (File #20-5-PCW) from Appendix B Section 2.5I, which requires parking area access driveways and entrances leading from the public road or subdivision street, and the parking area internal access drives connecting physically separated parking bays, to not exceed an 8% grade The applicant is requesting, just under 12% grade. The property is designated as Tax District: Middleway (07); Tax Map: 1; Parcels: 1.1 & 1.2; Zoned: Residential-Light Industrial-Commercial; Size: 7 and 16.62 acres.

Ms. Brockman provided an overview of her staff report.

Mr. Paul Raco presented the request for a waiver for the slope on a small portion of the driveway in the commercial portion. He also clarified that this area is not owned by Hoy Shingleton Trustee; but is owned by Townhouse Rental, LLC. He explained this slope is within the gated portion serving the commercial mini storages. The builder is working with the topo of the property and that these are 2 story mini storages, including a walk out bottom level. There will be no parking in this area and plenty of room, the slope will not exceed 12%.

Mr. Thomas made a motion to approve the waiver to be kept under a 12% grade. Mr. Fisher seconded the motion, which carried unanimously.

7. **Public Hearing:** Request by the applicant, Townhomes Rental, LLC, to approve the Preliminary Plat for Rocky Ridge Subdivision (File # 19-7-SD) in accordance with the Sections 24.114 and 24.115 of the Subdivision Regulations. The property is designated as Tax District: Middleway (07); Tax Map: 1; Parcels: 1.1 & 1.2; Zoned: Residential-Light Industrial-Commercial; Size: 7 and 16.62 acres.

Ms. Brockman provided an overview of the Rocky Ridge Preliminary Plat. She explained the Stormwater, water and sanitary sewer is being provided by Berkeley County and that they have approved the design of these facilities. She explained a buffer was asked for by Hospice at the Concept Plan stage, but it is not a requirement. Whether the proposed landscaping satisfies this request will be up to the commission. The Final Plat will be administratively approved; therefore, this is the last time this project comes before the Commission.

Mr. Shepp opened the floor to public comment.

Mr. DeWalt, CFO for Hospice, explained that a letter was sent prior to the meeting to the Planning Office (included in the packet) and he is reiterating the importance of road access and that its unencumbered use is critical. They requested a construction entrance and a dense natural border.

Mr. Lorenzetti asked for clarity about the buffer. Mr. DeWalt asked for a natural vegetative barrier and to not see the townhouses at all.

Mr. Raco explained that they accommodated the request by adding a buffer down the boundary line and normally the commercial use is required to input the buffer rather than the residential use. The applicant does not want to commit to the county landscape design standard. If commercial was buffering to them, the commercial would have had to do 3 rows of plantings. The applicant removed 12-14 townhouses to incorporate rain gardens and shortened the top and bottom rows of townhouses to minimize the impact on the Hospice property. The applicant also worked with the WV Division of Highways regarding Hospice's other request, but were not able to receive approval of the full commercial construction entrance. They offered to bring in construction via the first entrance along Hospice Lane and to provide the local builders contact information in case of the rare event of a road blockage.

Mr. Lorenzetti asked about the school bus stop and Mr. Raco mentioned that it would come in off of the first entrance. For clarification on buffering, they have committed to planting, not a grass or juniper. It will be bushes and trees – just not a completely screened buffer.

Mr. Stolipher moved to approve the Preliminary Plat as submitted. Mr. Fisher seconded the motion. Mr. Lorenzetti made a motion to amend the motion to include the landscape buffer. Mr. Hefestay seconded the amended motion. Mr. Shepp asked if there is any discussion about the amendment. Mr. Fisher asked for clarity of the motion. The developer has been asked to provide the buffer as shown, not the one requested by Hospice. A vote was taken on the amendment, which carried unanimously. A vote was taken on the original motion, as amended, which carried unanimously.

8. **Public Hearing:** Proposed text amendment to the Jefferson County Zoning Ordinance to create provisions to allow Commercial Cemeteries to process as a Conditional Use in the Rural zoning district, and a Principal Permitted Use in the Residential-Light Industrial-Commercial and Industrial

Commercial zoning districts. The text amendment, in accordance with WV Code Chapter 8A and Article 12 of the Zoning Ordinance, proposes revisions to Article 2, Definitions; Article 8, Supplemental Use Regulations (creation of Section 8.21 Commercial Cemeteries); and Appendix C, Principal Permitted and Conditional Uses Table. PC File #ZTA20-01.

Ms. Beaulieu provided an overview of the proposed text amendment, noting that the amendment includes provisions to allow commercial cemeteries to process by right in the RLIC and IC zoning districts, utilizing the commercial site development standards in Appendix B; and as a conditional use in the Rural zoning district with specific site development criteria including buffer requirements and setbacks.

Mr. Shepp opened the floor to Public Comment. The following person was signed up to speak: Christine Marshall.

Ms. Marshall spoke about concerns with water run-off and leaching from decomposing bodies contaminating the ground water.

Mr. Louthan asked if there were any state regulations to address stormwater management concerns.

Ms. Beaulieu stated that she had previously reached out to the Health Department to inquire about permitting requirements for cemeteries. She stated that the Health Department did not have an approval process for cemeteries. Ms. Beaulieu also spoke with representatives from the Department of Environmental Protection (DEP), who stated that a ground water permit was not required for cemeteries, and that a typical stormwater construction permit would be required for disturbed land.

Mr. Lorenzetti asked about the natural cemetery details and perpetual care for the cemetery if it were to go under.

Ms. Beaulieu stated that there are no embalming fluids or casings used in natural and green burials. The standard is 4-6' depth for burial, which is nowhere near the water table.

Ms. Jane Denison and Mr. Michael Judd, applicants, were present to address questions from the Commission. Mr. Judd explained that West Virginia has a cemetery association to oversee the long term care and maintenance of cemeteries. He also noted that they require a \$10,000 deposit to help with upkeep of the grounds.

Planning Commissioners explained that they wanted additional time to research the land use. Mr. Stolipher suggested that Public Comment period remain open for two weeks.

Mr. Lorenzetti made a motion to extend public comment for two weeks and put it on the October 13, 2020 Planning Commission Meeting, to allow time for research. Mr. Stolipher seconded the motion, which carried unanimously.

9. **Discussion and Possible Action:** Request from Gordon for the Planning Commission to consider within its work plan a proposed text amendment to the Zoning Ordinance to change the classification for Drive-Through Restaurants in the Residential-Light Industrial-Commercial (RLIC) zoning district from Conditional Use (CU) to Permitted Use (P).

Ms. Beaulieu provided an overview of the proposed text amendment, noting that in addition to the change in land use classification in Appendix C, the amendment proposes eliminating Section 5.8C.3.

Mr. Wallen, with Gordon, represented the request. He explained there is a reliance on drive-throughs due to the pandemic. He stated that "Gas Station – Large" is a conditional use in General

Commercial zoning but is permitted in the RLIC zone; however, drive through restaurants require a Conditional Use.

Mr. Stolipher made a motion to accept the request into their work plan and to schedule a public hearing. Mr. Louthan seconded the motion, which passed with a vote of 7 in favor and 1 opposed (Ralph Lorenzetti).

10. **Reports from Legal:** Mr. Cochran has no report.

11. **Planner's Memo:** Ms. Brockman reviewed the status of office availability and the next Planning Commission Meeting is October 13, 2020.

Mr. Shepp asked about any restriction for the number of people in the office. Ms. Brockman stated there is no limit.

12. **President's Report:** None.

13. **Actionable Correspondence:** None.

14. **Non-Actionable Correspondence:** Letter from Robert Aitcheson.

Mr. Lorenzetti mentioned making the letter from the ethics committee available to the County Commission and Mr. Stolipher agreed to do that.

Mr. Hefestay made a motion to adjourn the meeting at 8:33 pm. Mr. Fisher seconded the motion, which carried unanimously.

Mr. Shepp closed the meeting.