

Meeting Minutes
Jefferson County Planning Commission
January 12, 2021

The Jefferson County Planning Commission met on January 12, 2021 at 7:00 p.m. with the following Commission members present: Mike Shepp, President; Donnie Fisher, Vice President; Wade Louthan, Secretary; Steve Stolipher, County Commission Liaison; Ron Thomas, Shane Roper, and Jack Hefestay. J. Ware joined the meeting at 7:06 pm.

Staff members present included Jennifer Brockman, County Planner; Jonathon Saunders, County Engineer; Alexandra Beaulieu, Zoning Administrator; Nathan Cochran, County Attorney; and, William Rhorbaugh, Temporary Legal Counsel.

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. Due to technical difficulties, a portion of this meeting was not recorded.

Mr. Shepp called the meeting to order at 7:00 p.m. Mr. Shepp verified that there was a quorum at the start of the meeting. Ms. Beaulieu did a roll call of the members.

1. Election of Officers.

Mr. Shepp opened the nominations for President.

Mr. Stolipher nominated Mike Shepp for President.

Mr. Shepp opened the nominations for Vice President.

Mr. Shepp nominated Donnie Fisher for Vice President.

Mr. Stolipher nominated Wade Louthan for Secretary.

Mr. Shepp called for a motion on the nominations, which carried unanimously.

2. Approval of the Meeting Minutes: December 8, 2020. Approved as submitted.

3. Citizens Communication: Citizens were able to sign up for this item utilizing the chat function in ZOOM. Doug Rockwell and Bob Aitcheson provided comments regarding the solar energy text amendment (ZTA19-03).

4. Request for postponement.

Mr. Shepp acknowledged that the request for Brickstreet Homes, Item #5, had been withdrawn.

5. Public Hearing: Postponed from the 11/10/2020 and 12/08/2020 meetings. Request by applicant, Brickstreet Homes, LLC, for a waiver from Section 20.201A.2 to reduce the required 50' wide access easement to 40' for a proposed two lot (one lot and residue parcel) minor subdivision. Brickstreet Homes, LLC. Property Owner: Shaun Alexander. Property Location: Sites Farm, Lot 1B, 10668 Leetown Rd., Kearneysville. Tax District: Middleway (07); Tax Map: 14; Parcel: 20.4 (Parcel ID: 07001400200004); Size: 4.85 acres; Zoning District: Rural; File: 20-9-PCW.

The applicant had withdrawn his request.

6. Public Workshop: Concept Plan for the Stiles Agriculture Enterprises, Agricultural Event Center, and Farm Vacation Enterprises. The proposal consists of an Agricultural Event Center for up to 800 guests and Farm Vacation Lodging with up to five (5) units (or more, if Ordinance allows) with associated parking and signage. Property Owner: Stanley and Barbara (deceased) Stiles. Property Location: 118 Goshen Arrabon Ln, Charles Town, WV. Tax District: Kabletown (06); Tax Map: 21; Parcel: 4 (Parcel ID: 06002100040000); Size: 17 acres; Zoning District: Rural; File: 20-9-SP.

Mr. Shepp recused himself from this item. Mr. Fisher presided.

Mr. Cochran provided the Commissioners with an overview of the contested ownership information pertaining to the subject application. Mr. Cochran advised the Commission that he did not believe it was their role to interpret property ownership/signatory documents and noted that the most current document of record is requesting that the Commission hear the application. Mr. Fisher requested confirmation that Mr. Stanley Stiles is the property owner of record, and that it was his signature on the notarized document that was recently submitted. Ms. Beaulieu confirmed that document submitted on January 12, 2021 was signed by Mr. Stanley Stiles. Mr. Fisher stated he believed the Commission could proceed with the Public Workshop.

Ms. Brockman informed the Commission that unlike other applications, the Zoning Ordinance does not require a site plan to be submitted after approval of the Concept Plan for Agricultural Special Event Facility. Ms. Brockman noted that the only other application required will be the issuance of a Zoning Certificate and any relevant building permits. Ms. Brockman continued presenting her staff report to the Commission and provided a brief overview of the criteria outlined in the Zoning Ordinance.

Mr. Paul Raco with P.J. Raco Consulting briefly explained the nature of the request and discussed how the Concept Plan met the Zoning Ordinance criteria. Mr. Raco stated he had contacted the WV Department of Health and Human Resources to address their concerns regarding a proposed water supply for the events. Mr. Raco confirmed that he had spoken with Mr. Stiles that day and that Mr. Stiles stated that he wished to continue the Concept Plan application process. Mr. Fisher inquired about the status of the existing minor subdivision of the subject parcel. Mr. Raco stated the lots had not been sold and were currently under the farm use status as a single lot. Mr. Raco noted that should any of the lots be sold, that the Concept Plan would have to be modified accordingly.

Mr. Fisher opened the public workshop.

Joyce Stiles-Rawn and Mary Katherine Stiles-Iager, family members, spoke in opposition to the application expressing concerns regarding the notification process and the safety of the property owner. William Kelly Baty and Doug Rockwell, neighboring property owners, spoke in opposition to the application citing concerns regarding water flow/flooding and traffic safety. Lana Witiak, family member, spoke in support of the application noting that it would promote agricultural tourism, which would keep the existing farm active.

Mr. Fisher closed the public workshop.

Addressing Mr. Louthan's inquiry, Ms. Brockman noted that it appeared that a Traffic Impact Study would not be required, as the WV Division of Highways (DOH) did not provide comment on the application. Mr. Saunders informed the Commission that the DOH would typically evaluate the need for a Traffic Impact Study once they receive their own application.

Bob Aitcheson requested to speak noting that he was unable to provide testimony at the appropriate time. Mr. Fisher allowed Mr. Aitcheson to provide comment. Mr. Aitcheson, neighboring property owner, spoke in opposition to the application citing concern regarding traffic safety and questioned the ownership issues.

Mr. Raco provided a rebuttal, addressing some of the concerns made during public comment. Mr. Raco noted that the DOH had responded to a number of Concept Plan applications that he represented previously. Mr. Raco explained how governing agencies are provided notice in accordance with the Subdivision Regulations. Mr. Raco stated the family issues would be addressed outside of the Planning Commission meeting. Mr. Raco elaborated on how the proposed application

met the criteria of the Zoning Ordinance. Mr. Fisher asked about the notification requirements for a Concept Plan. Mr. Raco stated that the mailing address information for adjacent parcels is obtained from the Jefferson County Assessor's Office. Ms. Brockman confirmed Mr. Raco's statement and added that a sign is posted on the property and a legal ad is run in the newspaper.

Mr. Stolipher made a motion to approve the Concept Plan as presented with the condition that should the WV Division of Highways (DOH) require a traffic study that the applicant will comply. Mr. Louthan seconded the motion. Mr. Fisher called for a vote, which carried seven (7) in support and one (1) recusal (Mr. Shepp).

Mr. Shepp resumed his position as President.

7. Public Hearing: Request for a variance from Section 8.1.d from the 1979 Subdivision Ordinance to reopen and extend the date for bonding and recording of the approved Final Plat for Beallair Phase 4A from January 11, 2021 to April 12, 2021. Applicant/Property Owner: Beallair Subdivision, Route 24, Country Club Road and Beallair Manor Drive. Tax District: Harpers Ferry (04); Tax Map: 10A; Parcel: RESA (Parcel ID: 04010ARESA0000); Size 69+; Zoning District: Residential Growth; File: 20-5-PCV.

Ms. Brockman provided an overview of her staff report to the Commission. Ms. Brockman addressed Mr. Shepp's inquiry regarding the Commission's previous approval of the Final Plat. Ms. Brockman explained that the wording of the previous motion was unclear as to when the 90-day period would commence and/or expire.

Mr. Paul Raco with PJ Raco Consulting explained the nature of the request stating that there are a few unresolved issues that would be addressed within the requested timeframe.

Mr. Shepp stated he would be in favor of approving the request noting that the 90-day period would begin from the date all outstanding issues are addressed.

Mr. Fisher made a motion approve the variance with the clarification that the 90-day period would commence from the date the contingencies [conditions] are addressed. Mr. Stolipher seconded the motion, which carried unanimously.

8. Discussion and Possible Action regarding reconsideration of the Planning Commission's previous recommendation to the County Commission that the draft amendment was consistent with the Comprehensive Plan and also regarding the draft text amendment to the Jefferson County Zoning and Land Development Ordinance, File #ZTA19-03. The text amendment, in accordance with WV Code 8A and Article 12 of the Zoning Ordinance may include revisions to allow Solar Energy Facilities to process as a Principal Permitted Use and/or a Conditional Use in the following zoning districts: General Commercial, Highway Commercial, Light Industrial, Major Industrial, Rural, Residential Growth, Residential-Light Industrial-Commercial, and Industrial Commercial. The text amendment includes proposed revisions to Article 2 Definitions; Article 8 Supplemental Use Regulations (creation of Section 8.20 Solar Energy Facilities); and Appendix C Principal Permitted and Conditional Uses Table.

Mr. Roper recused himself from this item as he was not a member of the Commission during the previous recommendation.

Mr. Cochran briefly outlined the history of the amendment to the Commission and referenced the subsequent litigation that ensued. Mr. Cochran informed the Commission that the litigation resulted in an agreed order that dismissed the case. Mr. Cochran noted that as part of the agreed order, the

amendment would come back to the Planning Commission for further review. Mr. Cochran clarified for the record that the agreed order to dismiss the litigation did not claim that the Planning Commission or the County Commission erred in their actions. Due to the potential for additional litigation, Mr. Cochran advised the Commission to go into executive session to discuss the item further.

Mr. Stolipher motioned to go into executive session at 8:23 pm. Mr. Shepp called for a vote, which carried unanimously.

Mr. Shepp noted for the record that the Commission came out of executive session at 8:51 pm.

Mr. Stolipher motioned to come out of executive session at 8:51 pm. Mr. Shepp called for a vote, which carried unanimously. Mr. Thomas was unable to rejoin the meeting.

Mr. Stolipher made a motion to schedule a public hearing for the solar energy text amendment for the next Planning Commission meeting on February 9, 2021. Mr. Shepp called for a vote, which carried six (6) in support and one (1) recusal (Mr. Roper).

9. Reports from Legal Counsel. None.

10. Planner's Memo

Ms. Brockman provided the Commission an update on the following:

- a) Staff would be reviewing the Greenway Zoning Ordinance and Subdivision Regulation revisions invoices with the County Commission;
- b) The County Commission denied the cemetery text amendment; and,
- c) The County Commission approved the Drive-Through text amendment.

11. President's Report. None.

12. Actionable Correspondence. None.

13. Non-Actionable Correspondence. None.

- Email from Steve Stolipher RE: resignation from Planning Commission as a citizen representative – received 01-04-2021
- Letter from Doug Rockwell RE: Zoning Ordinance Text Amendment File # ZTA19-03 – Solar Energy Facilities – Received 01-05-2021
- Email from Doug Rockwell RE Zoning Ordinance Text Amendment File #ZTA19-03 – Solar Energy Facilities – Received 01-05-2021

Mr. Hefestay motioned to adjourn the meeting at 8:55 pm. Mr. Shepp called for a vote, which carried unanimously.