

Meeting Minutes
Jefferson County Planning Commission
May 11, 2021
Revised September 14, 2021

The Jefferson County Planning Commission met on May 11, 2021 at 7:00 p.m. with the following Commission members present: Mike Shepp, President; Donnie Fisher, Vice President; Wade Louthan, Secretary; Jack Hefestay, Ron Thomas (via ZOOM), Steve Stolipher, and Matt Knott. Shane Roper and J Ware were absent with notice.

Staff members present included Jennifer Brockman, County Planner; Alexandra Beaulieu, Zoning Administrator; Jonathan Saunders, County Engineer (via ZOOM); Nathan Cochran, County Attorney, Alice Johns, Planning Clerk.

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

Jennifer Brockman conducted a roll call. Mr. Shepp verified that there was a quorum and called the meeting to order at 7:01 PM.

1. Approval of Meeting Minutes: April 11, 2021. The minutes were approved as submitted.
2. Request for postponement. None.
3. **Public Workshop:** Concept Plan for the Road Runner Wrecker Service Inc. The proposal for the Road Runner Wrecker Service (salvage yard) consists of the following: Sidewalks, curbs, scale house, car crusher, decommissioning rack, 2 AST's, 54 (9' x 40') storage containers, 181 proposed paving. Owner/Applicant: DLGA, LLC; David & Lisa Butcher. Property Location: 2282 Summit Point Road, Summit Point; Tax District: Kabletown (06); Map: 16; Parcel 10; Total Project Size: 25 acres; Zoning District: Rural. File: 21-1-SP.

Jennifer Brockman presented an overview of her staff report to the Commission. This property has historically been a salvage yard. DLGA is the new owner of this property.

Ms. Alexis "Brooke" Walburn, with Greenway Engineering, as the consultant for this project, spoke and explained that this is re-development of an existing non-confirming use. At the April Board of Zoning Appeals (BZA) meeting, the BZA approved a variance request to reduce the required side setback from 50' to 25' for 54 storage units/sea containers, as an accessory use. These sea containers will be stored along the east property line, next to existing storm water management parcel. These sea containers will be relocated off site, filled, then those materials scrapped. The new owner has worked out a plan of corrective action with Department of Environmental Protection (DEP) for previous environmental issues. Ms. Walburn stated that the goal is to bring the facility up to standards and make it much better facility for Jefferson County.

Mike Shepp asked what was there previously. Ms. Walburn explained it was the same facility but changed ownership.

Ms. Brockman referenced a WV DOH email submitted today. WV DOH has no objections but has various requirements that must be met prior to the issuance of an entrance permit. Jefferson County Historic Landmarks Commission also had no objections, as there are no historic structures in that area.

Mr. Shepp opened the item for public comment. There was no public comment. Mr. Shepp closed the item for public comment.

Mr. Steve Stolipher made a motion to approve the Concept Plan, which was seconded by Jack Hefestay and carried unanimously.

Mr. Shepp recused himself from the following agenda item (King's Crossing Major Residential Subdivision; File#21-8-SD).

4. **Public Workshop:** Concept Plan for King's Crossing Major Subdivision. King's Crossing is a Major Residential Subdivision consisting of 404 lots: 175 Single Family Detached, 229 Single Family Attached (Townhouses), 7.43 acres open space, 4.96 acres stormwater management and associated infrastructure. Owner/Applicant: DR Acquisitions LLC. Tax District: Charles Town (02); Tax Map: 17; Parcel: 11. Zoned Residential Growth. Total Project Size: 86 acres. File: 21-8-SD

Ms. Brockman detailed the location of Kings Crossing. Ms. Brockman reminded the Planning Commission of the previously approved waivers which allows 12 lots on one side of a street (21-6-PCW) and reduced required lot frontage to 60'(21-7-PCW). A requested side setback variance was denied by the Board of Zoning Appeals (21-12-ZV).

Mr. Jason Gerhart with Gordon provided an overview of the project. He explained that the project will be completed in phases. The phases will be market driven but expected to be between 50 and 100 lots at a time, starting at the entrance at Charles Town Road (WV 115) and working towards the west with an ultimate connection into Norborne Glebe subdivision. Mr. Gerhart noted that the developer is working with WVDOH who has required a Traffic Impact Study (TIS) to be completed for the subdivision. The developer is proposing one entrance to be roughly across from existing water treatment plant and the second entrance from WV 115) to be closer to the eastern property line where it is flatter and has adequate sight distance in both directions. Expectation is once approvals are obtained, Dan Ryan would like to start construction this fall.

Ms. Brockman explained that the Charles Town Utility Board could service this location. Access to utilities was an issue when this subdivision was proposed in 2005 and 2008. WVDOH may require some highway improvements based on the TIS. The Jefferson County Historic Landmarks Commission indicated that they had no objections to this Concept Plan.

Staff noted key Subdivision Regulation requirements related to access to adjoining land and having two access points. The proposed subdivision is meeting these requirements.

Mr. Donnie Fisher opened the Public Hearing.

Ms. Ashlee Hawse had questions on phasing and start date which were addressed in Mr. Gerhart's presentation.

Ms. Carrie Jenkins questioned what other improvements are being made to local infrastructure. She expressed concern about several fatal accidents in the vicinity. She questioned whether the County's water infrastructure is overwhelmed and what community activities are planning on being added (such as A Movie theatre) and what the time frame is.

Ms. Roxanne Ashbaugh questioned how water and sewer would be affected by these developments. She commented that people who have lived here for years will not be able to afford it.

Mr. Donnie Fisher closed the hearing for public comment.

Mr. Jason Gerhart provided additional information about the project and explained that a Traffic Impact Study is being conducted as required by the WVDOH. The TIS will look at numerous intersections that are areas of concern. This is an on-going process to get WVDOH approval and mitigate the impact of this development. WVDOH approval must occur before the County can approve the project. Charles Town Utility Board is the water and sewer provider. Mr. Jason Gerhart explained that they are coordinating with the Charles Town Utility Board (CTUB) for water and sewer and as far as he knows, CTUB does not have any capacity issues. Finally, Mr. Gerhart explained that Jefferson County requires an impact fee for all new development. Every home that is constructed pays a fee that lessens the burden of tax impact of additional residents to the region.

Ms. Brockman clarified the steps involved in reviewing a Major Residential Subdivision Process. Ms. Brockman explained that today's public workshop would provide direction and/or approval, but could not lower the density or deny the project because of concerns outside of the scope of the Zoning Ordinance or Subdivision Regulations, unless proffered by the applicant. The approval, if granted, would be valid for two years. She clarified that a Major Residential Subdivision also requires the review and approval of the Preliminary Plat at a Public Hearing. The Final Plat is administratively approved.

Mr. Steve Stolipher made a motion to approve the Concept Plan, which was seconded by Jack Hefestay and carried passed 6 to 0, with Mr. Mike Shepp recusing himself.

Mr. Shepp was admitted back into the meeting.

5. **Public Hearing:** Waiver of Section 20.201B.3 of the Subdivision Regulations which requires all lots in Minor Family Transfer Subdivisions to have motor vehicle access via a 50' access easement. The applicant is proposing to utilize an existing 30' access easement known as Round Rock Lane instead of the required 50' access easement for the creation of a family transfer parcel.
Owner/Applicant: Margaret Hoffman /David Costello, Jr. (Alpha Associates, Inc.). Property Location: across from 309 Round Rock Lane, Charles Town, WV. Tax District: Kabletown (06); Map 22; Parcel 7. Total Project Size: 23.42 acres. Zoning District: Rural. File: 21-9-PCW.

Ms. Brockman provided an overview of the request. The applicant has had two Family Transfers previously approved and are proposing an additional Family Transfer lot. There is a 30 ft access easement that serves lot labeled as Snelson (now owned by Dieffenbacher). The Hoffman's request is to utilize the existing 30' easement, known as Round Rock Lane, instead of the required 50' access easement for the creation of the family transfer parcel.

Mr. David Costello, Jr. with Alpha Associates Inc. and Mr. Colin Hoffman, grandson of Margaret Hoffman, were present. Mr. Colin Hoffman will be receiving the property. Mr. Costello, Jr. explained that Gary Hoffman, who owns Lot B, will not allow the widening of the 30 ft. easement. Additionally, Mr. Costello, Jr. stated that all the lots along Round Rock Lane have the legal access to use the 30 ft. right of way and that the state road it ties into is only 30 ft. wide. Mr. Costello, Jr. stated that the suggestion to widen the alternate exiting 40' access easement to 50 ft. would require the construction of an additional 850 to 900 ft. of additional driveway in that location vs, the use of an existing driveway within the 30' access easement. He further explained that the applicant would share in any future maintenance costs on Round Rock Lane.

Mr. Shepp asked if there was an existing driveway on the existing 30' access easement and if any new construction would be required. Mr. Costello, Jr. replied that yes there was an existing driveway and indicated that no new construction would be required.

Ms. Brockman clarified other portions of the request and explained that there are written public comments that were included as part of the packet.

Mr. Shepp opened the item for public comment.

Mr. Ryan Dieffenbacher explained that earlier he was not in support of this request for two reasons. First, the future liability of the request and it was explained that was not the case. Second, he had some concerns about the 30 ft. easement having an impact on the property value. He further stated that he is willing to work with proposed owners with shared maintenance.

Mr. Mike Shepp clarified that this variance is only for this one individual, and that any additional people who wanted a variance would have to come back to this commission to request it.

Mr. Mike Shepp closed the public hearing.

Mr. Matt Knott asked if both have the right to use the 30' access anyway, couldn't they provide the 50' access in one location and use the 30 ft. access easement? This concept was discussed by the Planning Commission and Mr. Costello, Jr.

Mr. Mike Shepp re-opened the public hearing.

Mr. Gary Hoffman spoke and expressed concerns about the road not supporting construction traffic and stated he was against the waiver. Ms. Kathy Hoffman also expressed concern about the amount of traffic that the 30' easement can handle. Mr. Gary Hoffman questioned whether future lots would be allowed to use the 30' easement as well.

Mr. Mike Shepp closed the public hearing again.

Ms. Brockman clarified that even if this group/body approved this request, they might not get a DOH permit.

Mr. Jack Hefestay made a motion to approve and Mr. Donnie Fisher seconded. The motion passed unanimously.

6. **Miller/ Jefferson Orchard Zoning Map Amendment:** Planning Commission review and recommendation to the County Commission regarding whether the petition for a Zoning Map Amendment to rezone the subject 238.9-acre (based on a survey) property from Rural to Light Industrial (43.7 acres) and Residential Growth (195.2 acres) is consistent with the *2035 Comprehensive Plan*. Owner/Applicant: Mark Ralston, Jefferson Orchards Inc. Property Location: two vacant parcels located east of Route 480 (Kearneysville Pike) and one mile north of the Route 9 interchange. Tax District: Middleway (07); Map: 3; Parcels: 29 and 35. Combined acreage: approximately 238.9 acres (based on survey). Zoning District: Rural. File: 21-2-Z.

This agenda item was not open for public comment.

Ms. Brockman provided an overview of this request. Ms. Brockman explained the finding that the request is not consistent with the *Envision Jefferson 2035 Comprehensive Plan* because it is

designated as Future Rural/Agricultural and is outside any Preferred Growth Area (PGA) or Urban Growth Boundary.

Mr. Mark Dyck, with Gordon provided comments on the application. He stated that this proposal was not for expansion of Rockwool. He further explained that the demand in Jefferson County is for traditional suburban residential development which was not permitted in Ranson or Charles Town. Mr. Mark Dyck, stated that in this area the roads have changed and that WVDOH will be extending Northport Avenue to WV 480 which will provide secondary access point. The divided two-lane portion of Northport Avenue ends at the properties in question. Mr. Mark Dyck then explained that in 2014, when the Comprehensive Plan was drafted, the nearest access for water was 1.8 miles away. Ranson has now extended water and sanitary sewer within 100 ft. of this property. Natural gas will also be available to new development in this area.

Mr. Mark Dyck also stated that Jefferson County schools enrollment has dropped from 9,066 to 8,419 and that Jefferson County has lost 573 enrolled students. He further stated that in 2012 Kindergarten enrollment was 728, but has dropped to 514 in the current year. Mr. Mark Dyck expressed concern that Jefferson County needs to encourage growth. He stated that the developer of these properties is interested in a mix of single family and townhouse development with a lower density than the Medium Density residential growth recommended for Kearneysville. He also stated that the Light Industrial zone is intended to be for distribution employment and not manufacturing.

When the applicant had completed his presentation, Mr. Mike Shepp asked the Planning Commission had any questions. Hearing none, Mr. Shepp stated that the applicant had made a powerful argument in their presentation and directed a question to Mrs. Brockman, asking her to clarify if she believed that the Planning Commission could not determine this request to be compatible with the Comprehensive Plan even if they think it is due to the changes in circumstances. Mrs. Brockman began to answer referring the WV Code provision that allows the Planning Commission to determine that it is not consistent; however, the state law allows the Planning Commission to state that there have been changes. At this point, Mr. Nathan Cochran interjected and recommended to Mr. Shepp that the Planning Commission may want to go into Executive Session for the purpose of receiving legal advice regarding the application of the statute in question. Based on this recommendation, Mr. Shepp requested a motion to go into Executive Session.

Mr. Wade Louthan then made the motion to go into Executive Session, which was seconded by Mr. Jack Hefestay at 8:05 pm.

Mr. Wade Louthan made the motion to come out of Executive Session which was seconded by Mr. Jack Hefestay at 8:25 pm.

Mr. Mike Shepp made the motion to find that the application is not in accordance with the Comprehensive Plan; however, there have been many changes of economic, fiscal or social nature within the area involved which were not anticipated when the Comprehensive Plan was adopted and these changes have substantially altered the basic characteristics of the area. Among those changes are roads, sewer, water, gas, Zoning in Ranson and Rockwool. This was seconded by Donnie Fisher, and the motion passed unanimously.

7. Reports from Legal Counsel

- a. Burke, et al. v. The Jefferson County Planning Commission, et al. (Jefferson County Circuit Court Civil Action #s 33-37)
- b. Burke, et al. v. County Commission of Jefferson County, WV, et al. (Jefferson County Civil Action #s 46-50)

8. Planners Memo:

- a. Revised Second Meeting policy.
- b. The County Commission approved the Solar Text amendment, effective April 13. We have had an application submitted.
- c. For June meeting, there will be two Concept Plans one for Solar and one for Charles Town Sheetz/Augustine Ave.

9. Presidents Report

10. Actionable Correspondence: None

11. Non-Actionable Correspondence: None

Mr. Jack Hefestay motioned to adjourn the meeting at 8:34 pm which was seconded by Matt Knott, and passed unanimously.

These minutes were prepared by Alice Johns, Planning Clerk.