

Meeting Minutes
Jefferson County Planning Commission
March 8, 2022

The Jefferson County Planning Commission met on March 08, 2022 at 7:00 pm with the following Planning Commission members present: Mike Shepp, President; Matt Knott, Vice President; Wade Louthan, Secretary; Steve Stolipher, County Commission Liaison; Jack Hefestay, Donnie Fisher, Ron Thomas via zoom. Shane Roper and J Ware were absent with notice.

Staff members present included Jennifer Brockman, County Planner; Alexandra Beaulieu, Zoning; Tanya Lyons Planning Clerk; Jonathan Saunders County Engineer; Nathan Cochran, County Attorney; and Will Rohrbaugh, County's legal representative.

The Planning Commission meeting was held as a hybrid meeting. The Hybrid meeting information was made available on the agenda and packet, which were posted to the County website.

Mr. Shepp called the meeting to order at 7:00 pm. and confirmed that a quorum was present.

1. Approval of the meeting minutes:

Hearing no objection, Mr. Shepp approved the February 08, 2022 minutes as presented.

2. Request for postponement. None.

3. **Public Hearing:** Request for a waiver of Section 24.113.B.10 of the Subdivision Regulations, which requires an Archaeological Survey for all Major Subdivision Preliminary Plats. Applicant: Dan Snyder, P.E., B.C. Partners, Inc. Property Owner: B.C. Partners, Inc. Property Location: Northeast Corner of US 340 and WV 24, Old Country Club Road, WV. Parcel ID: 04001100110000; Size: 9.54 acres; Zoning District: Residential-Light Industrial-Commercial. File: 22-2-PCW.

Ms. Jennifer Brockman presented the staff report describing the location of the property and providing an overview of the requirements of the Regulations.

Mr. Paul Raco, representing the applicant, introduced Dan Snyder, the applicant, and provided a summary of the request to waive this requirement. He further noted that the Jefferson County Historic Landmarks Commission provided comments at the Concept Plan Public Workshop and that the land had been evaluated by the state when US 340 was constructed.

Mr. Shepp opened the Public Hearing. No comments were received. The Public Hearing was closed.

Steve Stolipher made a motion to accept the Waiver as submitted. Donnie Fisher seconded the motion, which was approved unanimously.

4. **Public Hearing:** Request for a waiver from Appendix B Table 2.2-1 "Roadway Design Standards" of the Subdivision Regulations, as it relates to standards for Non-Residential/ Industrial & Commercial Streets, including the required 60' ROW width (requesting 50'); the required stopping sight distance of 235' (requesting 207') and the minimum horizontal curve radius of 300' (requesting 200' and 175'). Applicant: Dan Snyder, P.E., B.C. Partners, Inc. Property Owner: B.C. Partners, Inc. Property Location: Northeast Corner of US 340 and WV 24, Old Country Club Road, WV. Parcel ID: 04001100110000; Size: 9.54 acres; Zoning District: Residential-Light Industrial-Commercial. File: 22-3-PCW.

Ms. Jennifer Brockman introduced the staff report describing the requirements of the Regulations and deferred to Mr. Jonathan Saunders for Engineering's input. The Planning Commission requested that the applicant provided an overview of their request prior to hearing from Mr. Saunders.

Mr. Paul Raco, representing the applicant, explained that the waiver request relates to three specific standards within Table 2.2-1 “Roadway Design Standards” of the Subdivision Regulations for this four lot commercial subdivision. The three standards relate to the following which were explained by Mr. Raco:

- Commercial Road Right of Way Width (requesting 50’ vs 60’), especially since this is a curb and gutter design
 - Required Stopping Sight Distance, related to the vertical curve, which can be mitigated by slower speeds. Applicant agrees to 20 mph for this road
 - Horizontal curve radius, which can also be mitigated by the slower speed
- Mr. Saunders then addressed the Office of Engineering’s analysis of the three waiver requests and why they can be supported with the closed section and the lower speed limit.

Mr. Shepp opened the Public Hearing. No public comment was received. The Public Hearing was closed.

Mr. Jack Hefestay made a motion to accept all 3 waiver as presented; Mr. Matt Knott seconded. Mr. Donnie Fisher requested whether the motion should include the 20mph speed limit as a condition. Mr. Hefestay accepted the amendment and the motion was approved unanimously.

5. **Public Hearing:** Request for a waiver of Section 20.201C.2 to allow a non-residential lot in a proposed minor subdivision to utilize an existing 20’ access easement (Tabernacle Lane). Applicant: Mission Tabernacle Church. Property Owner: Charlotte Beahm; Property Location: 382 Mission Rd., Harpers Ferry, WV. Parcel ID: 02021A00140000; Size: 1.37 acres; Zoning District: Rural. File: 22-4-PCW.

Ms. Jennifer Brockman presented the staff report describing the location of the property and providing an overview of the requirements of the Regulations. She further explained that Mrs. Beahm wants to dedicate a small portion of her land to the church to use for a parking area and that the Board of Zoning Appeals approved a variance to allow the substandard lot provided no structures were constructed on the lot. It cannot be merged with the church lot due to the 20’ access easement in question in this waiver.

Pastor Sam Snow, representing the church, provided an overview of this request and the need to use the easement as it exists. The delay in processing the plat (since the BZA approval) related to the finalization of the easement. Mr. Ed Johnson, surveyor, was also available to address the request.

Mr. Shepp opened the Public Hearing. Mr. Joshua Stillwell, member of the church and whose mother is the neighbor to this potential parking area, spoke in support of the use of this property for parking and requesting approval of the waiver.

Public Hearing was closed.

Mr. Steve Stolipher made a motion to approve the waiver as presented; Donnie Fisher seconded it. The motion passed unanimously.

6. **Public Hearing:** Request for a waiver of Section 20.201C.3; Appendix B, Sec. 3.1; and Appendix A, Sec. 1.4.28 to allow a non-residential lot in a proposed minor subdivision to process a final plat without obtaining health department approval. The subject lot will consist solely of an overflow parking area for Mission Tabernacle Church. Applicant: Mission Tabernacle Church. Property Owner: Charlotte Beahm. Property Location: 382 Mission Rd., Harpers Ferry, WV. Parcel ID: 02021A00140000; Size: 1.37 acres; Zoning District: Rural. File: 22-5-PCW.

Ms. Jennifer Brockman presented the staff report explaining the Health Department approval requirements of the Regulations. She explained that staff has recommended asking the health Department to waive their approval under the circumstances, but they were not able to do that, therefore this waiver is required.

Staff agrees that the request to waive health department approval appears reasonable because it is only a half of an acre being gifted to the church for parking purposes only, provided that restriction is made a part of the motion.

Pastor Sam Snow stated that the Health Department originally said that the lot would not be able to be built on because of its size, so no Health Department approval was required. Mr. Ed Johnson stated that the Health Department subsequently stated that the applicant would need to document all surrounding wells and septic reserve areas which would require a significant amount of unnecessary work.

Mr. Shepp opened the Public Hearing.

Mr. Joshua Stillwell spoke in support of the waiver request as the use will be a parking lot. The Public Hearing was closed.

Mr. Jack Hefestay made a motion to approve the waiver request with staff contingency that no structures requiring water or wastewater facilities may be constructed on the site without returning to the Planning Commission or Board of Zoning appeals for further consideration. Mr. Donnie Fisher seconded; the motion was approved unanimously.

There is no public comment for the following items.

- 7. Discussion and Action for a Zoning Map Amendment Request:** Planning Commission review and recommendation to the County Commission regarding whether the petition for a Zoning Map Amendment to rezone the subject parcel (to be known as Green Hill) from Rural to Residential Growth (RG) is consistent with the *Envision Jefferson 2035 Comprehensive Plan*. Owner/Applicant: William Reilly. Property Location: Northeast of the Flowing Springs Rd/Daniel Rd intersection Charles Town, WV. Tax District: Charles Town (02), Map: 3; Parcel: 9. Acreage: 102 acres. Zoning District: Industrial Commercial. File: 22-1-Z.

Mr. Mike Shepp pointed out that the zoning district in the description should be Rural not Industrial Commercial. Jennifer Brockman agreed.

Ms. Jennifer Brockman described the location of this property and provided an overview of the staff report related to the applicant's request to rezone a total of 102 acres from Rural (R) to Residential Growth (RG). Ms. Brockman described the recommendations of the Land Use and Growth Management Element and the Future Land Use Guide of the *Envision Jefferson 2035 Comprehensive Plan* as it relates to this property. Staff noted that the request appears consistent with the *2035 Plan* because it is within the Residential Preferred Growth Area and shown as future "Low Density Residential" on the Future Land Use Guide. The owner-initiated rezoning to Residential Growth (RG) would allow for a variety of residential land uses such as single family, two family dwellings and/or townhome units. She also reminded the Planning Commission's role only relates to consistency with the *Comprehensive Plan* and the public can chose to speak at the County Commission's Public Hearing scheduled for March 17, 2022.

Mr. Wade Louthan made a motion that the proposed Zoning Map Amendment is found to be consistent with the *Envision Jefferson 2035 Comprehensive Plan*. Mr. Matt Knott seconded the motion, which was approved unanimously.

It was noted that Mr. Chad Wallen, with Integrity Federal Services, representing the applicant, was on the ZOOM meeting and had been overlooked during this discussion.

- 8. Discussion and Action for a Zoning Map Amendment Request** Planning Commission review and recommendation to the County Commission regarding whether the petition for a Zoning Map Amendment to rezone a 0.52-acre portion of the 4.42-acre subject parcel from Rural to Highway Commercial (HC) is consistent with the *Envision Jefferson 2035 Comprehensive Plan*. Owner/Applicant: Guy Chicchirichi. Property Location: NE of Augustine Avenue/Route 340 intersection Charles Town, WV. Tax District: Charles Town (02), Map: 16; Parcel: Portion of #1 acreage: 0.52 acres. Zoning District: Rural. File: 22-2-Z.

Mr. Steve Stolipher recused himself from this agenda item and left the room.

Ms. Jennifer Brockman described the location of this 0.52-acre portion of the property and how it relates to the previously approved Zoning Map Amendment (File #21-1-Z) for a 2.5-acre portion of the property from Rural to Highway Commercial. Ms. Brockman described the recommendations of the Land Use and Growth Management Element and the Future Land Use Guide of the *Envision Jefferson 2035 Comprehensive Plan* as it relates to this property. Staff noted that while the request is not consistent with the *Envision Jefferson 2035 Comprehensive Plan* Future Land Use Guide (Map), it does conform with other recommendations of the Plan.

Mr. Chad Wallen, Integrity Federal Services, spoke on behalf of the applicant and explained how the survey resulted in the need for the modified request. Mr. Wallen also described some changes from the original Concept Plan which includes a change to the entrance closest to US 340 to a right turn in only and noted that instead of 6 fueling islands it will only be 5 fueling islands.

Mr. Matt Knott made a motion to find that the Zoning Map Request is consistent with the *Envision Jefferson 2035 Comprehensive Plan*. Mr. Jack Hefestay second the motion, which carried unanimously.

Mr. Stolipher re-entered the room at the conclusion of this agenda item.

9. Reports from Legal Counsel

- a. Discuss and review Jefferson County Circuit Court Civil Action No. 2021-C-109.
- b. Review of Zoning Text Amendment File #ZTA19-03 related to solar energy facilities, including discussion of Jefferson County Circuit Court Civil Action No.'s 2021-C- 33 through 37 and Jefferson County Circuit Court Civil Action No.'s 2021- C-46 through 50, and WV Supreme Court No.'s 21- 0727, 21-0728, and 21-0731.
- c. Discussion regarding Comprehensive Plan Amendment, related issues and Jefferson County Circuit Court Civil Action No. 2022-C-6.

Mr. Nathan Cochran stated that due the fact that Items a and b are on-going litigation, he needed to speak to the Commission in executive session and item c also has pending litigation as well.

Mr. Mike Shepp made a motion to go into Executive Session to receive legal advice from the Planning Commission counsel for Items a, b and c listed on the agenda. Wade Louthan seconded the motion; which carried unanimously.

The Planning Commission members were reminded to turn off their sound /video in ZOOM and to phone into the Executive Session if they were on ZOOM.

At 8:05 pm, Mr. Jack Hefestay moved to come out of executive session; Donnie Fisher seconded the motion, which was approved unanimously.

Mr. Shepp made a statement for the record that during the executive session, Commissioner Steve Stolipher left the room and recused himself for items b and c.

10. Planner's Memo

Ms. Brockman provided an update on the County Commission action on various Planning Commission recommendations; provided information about an upcoming WVU Land Use Law Institute's Mountain Land Use Academy in conjunction with the West Virginia Chapter of the American Planning Association (May 17-18, 2022, Pipestem State Resort Park); and noted that the next meeting is on April 12, 2022.

11. Zoning Administrator's Memo regarding a scrivener's error in the Zoning Ordinance.

Ms. Alex Beaulieu provided an overview of an error that has been noted in Appendix A. It appears that when the tables were created for the appendices in 2014, the cells did not merge correctly and has impacted the development standards for townhouse. The table just needed to be amended with the correct cell information noted as a scrivener's error. No other information needed to be changed. She noted that no Planning Commission action is needed to formalize the correction.

12. President's Report. None.

13. Actionable Correspondence. None.

14. Non-Actionable Correspondence

- Email from Richard Zigler dated February 20, 2022 regarding the proposed Comprehensive Plan text amendment pertaining to solar energy facilities.

Mr. Jack Hefestay motioned to adjourn the meeting; Mr. Matt Knott seconded the motion, which carried unanimously. The meeting was adjourned at 8:10 pm.

These minutes were prepared by Tanya Lyons, Planning Clerk.