

Meeting Minutes
Jefferson County Planning Commission
October 11, 2022

The Jefferson County Planning Commission met on October 11 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; and Ron Thomas. J. Ware was absent without notice and Shane Roper was absent with notice.

Staff members present included Jennifer Brockman, County Planner; Jonathan Saunders, County Engineer; Nathan Cochran, County Attorney; and Tanya Lyons, Planning Clerk.

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 Meeting Minutes:** September 13, 2022

Please note this meeting had Audio/Video Issues and there is no recording for this month's meeting.

Mr. Shepp stated that the minutes stand approved without objection.

2. **Request for postponement.** Item #3 was postponed by the applicant until 11/15/22.

3. **POSTPONED to November 15, 2022 Planning Commission Meeting Public Hearing:**

Country Club Commons Preliminary Plat to create 4 non-residential lots and a public street for future commercial pad-users. Property Owner: B.C. Partners, Inc. Property Location: Vacant NE Corner of Route 24 and Route 340; Parcel ID: 04001100110000; Size: 9.54 acres; Zone: Residential-Light Industrial-Commercial; File: #19-17-SD.

4. **Public Hearing:** Final Plat Amendment to lift the single family restriction (Note #1 on Final Plat DB 721/PG310) to allow for the construction of a detached accessory dwelling unit for a family member. Property Owner/Applicant: Bobby and Nancy Jones; Property Location: 208 Turn One Drive, Summit Point, WV; Parcel ID: 06001700060006; Size: 16.26 ac; Zoning District: Rural; File: #22-5-FPA.

Ms. Jennifer Brockman described the location of this property and provided an overview of the staff report, stating that this subdivision was processed when the Regulations required including a note that each parcel is restricted to one single family residence unless otherwise approved by the planning commission. The applicants are proposing the construction of a detached accessory dwelling unit for a family member. Because this is a note on the final plat previously approved by the Planning Commission, a Final Plat Amendment is required to be approved by the Planning Commission to allow this change.

Mr. Shepp called the applicant up to speak. No representation was there on behalf of the Mr. and Mrs. Jones.

Mr. Shepp recommended that the Planning Commission move the request to the November 15 meeting, to be considered later in the meeting.

5. Reconsideration of Waiver Request (based on a redesign provided by the applicant):

Public Hearing: Request for waiver from Section 20.203B2 to waive a site plan requirement to allow a construction of a 1,274 square foot apartment building and a 300'+/- gravel driveway. Applicant/Property Owner: Susquehanna Properties LLC/Doug Porter; Property Location: 14956 Charles Town Rd, Charles Town; Tax District: Charles Town (02), Map: 0017, Parcel: 19; Size: 0.94 acres; Zoning District: Residential/Light Industrial/Commercial; File: #22-18-PCW.

Ms. Brockman provided an overview of the new design that Mr. Porter presented to Mr. Saunders for approval. Mr. Saunders reviewed what was submitted to the staff and agrees that it addresses the Planning Commission's concerns, but believes that it requires Planning Commission approval.

The applicant, Mr. Doug Porter, had nothing to add to staff comments

Mr. Shepp opened the Public Hearing. There was no public comment.

Mr. Shepp closed the Public Hearing.

Mr. Shepp made a motion to approve the waiver as revised; Mr. Fisher seconded the motion, which was approved unanimously.

Mr. Knott recused himself for Agenda Item # 6.

6. Public Hearing: Waiver request from Section 20.102.B to allow site grading to commence prior to site plan approval for the River Riders Snow Tube project. Property Owner/Applicant: Harpers Ferry Holdings, LLC; Property Location: 408 Alstadts Hill Rd., Harpers Ferry, WV; Tax District: Charles Town (04), Map: 9, Parcels: 62, 63.1,61,70,72,75 63; Total Project Size: 15+/- acres; Zoning District: Residential-Light Industrial-Commercial; File: #22-19-PCW.

Mrs. Brockman provided an overview of the proposed redline revision to the approved Site Plan and presented staff recommendations. She also noted that the owner informed the staff that they had become aware that the contractor had initiated the early grading work before the waiver has been presented to the commission and that the work had been stopped as soon as the owner found out. Mr. Saunders confirmed that the silt fence is in place and that the property owner has 7 – 14 days to seed and mulch the property.

Mr. Paul Raco, consultant for this project, provided an overview of the early grading waiver request and reiterated that the grading that had started prematurely had stopped and no further work had been done since that time.

Mr. Shepp opened the Public Hearing. The following member so the public spoke:

- Mr. Eric Sokel stated that he wants to make sure that his easement is protected from the developer's customers parking and the snow impacting his property stay off his property.
- Mr. Mark Grimes stated that he started River Riders and that he has no problem with the proposed tubing activity but that he is concerned about erosion and sedimentation control impacting his property.

Mr. Shepp closed the Public Hearing.

Mr. Stolipher made a motion to approve the waiver as presented; Mr. Hefestay seconded the motion, which was approved unanimously.

Mr. Knott returned to the meeting.

Mr. Stolipher recused himself for Agenda Item # 7.

7. Public Hearing: Request for the following waivers:

- a. Waiver request from Appendix B, Sec. 2.3.B.3 to increase the maximum two-way entrance width from 35' to 37' to accommodate tractor trailer movements for a proposed retail store (Dollar General).
- b. Waiver request from Appendix B, Sec. 2.5.N to increase the maximum drive aisle width from 24' to 42' to accommodate tractor trailer movements for a proposed retail store (Dollar General).

Property Owner: Iris Wood. Applicant: A&R Development (Dollar General); Property Location: Mark Kramer Subdivision, Lot 2, Southwest corner of Amanda Ct. and Shepherdstown Pk., Harpers Ferry, WV; Parcel ID: 04001000110005; Size: 2.26 acres; Zoning District: Residential-Light Industrial-Commercial (22-20-PCW).

Ms. Brockman presented the two waiver requests related to the Harpers Ferry Dollar General Site Plan, providing the staff recommendations related to the wider entrance and drive aisle within the parking lot.

Mr. Rob Milne, Sr. Project Manager, and Mr. Rich Wright, Design Architect, with the Thrasher Group, represented the applicants and explained why the entrance should be wider off the main road as these trucks need a wider turn zone so that it does not impact the main traffic flow. An extra lane would not be possible either because people may think that it is a passing zone and cause more issues.

Mr. Shepp opened the Public Hearing. Mr. Baron Carlisle signed up to speak, but was not present when called. Mr. Shepp closed the Public Hearing

Mr. Fisher asked the staff why the County has a maximum width for entrances. Mr. Saunders responded that it is primarily for storm water management.

Mr. Hefestay made a motion to approve both waivers "a" and "b" as submitted; Mr. Knott seconded the motion, which carried unanimously.

Mr. Stolipher re-entered the meeting room.

8. Public Hearing: Waiver request from Section 21.101.A, which requires blocks to not exceed six lots in length on one side of the street, to allow a mixture of lot numbers along both sides of the streets for the proposed Stonecrest Subdivision (22-11-SD). Property Owner: Flowing Springs Road, LLC; Applicant: DR Horton; Property Location: Flowing Springs Road, Charles Town, WV; Parcel ID: 02000300090000; Size: 104.98 acres; Zoning District: Residential Growth; File #22-21-PCW.

9. Public Hearing: Waiver request from Section 21.104.A of the Subdivision Regulations to reduce the minimum lot width from 80' to 65' for the proposed Stonecrest Subdivision (22-

11-SD). Property Owner: Flowing Springs Road, LLC; Applicant: DR Horton; Property Location: Flowing Springs Road, Charles Town, WV; Parcel ID: 02000300090000; Size: 104.98 acres; Zoning District: Residential Growth; File #22-22-PCW.

Ms. Brockman recommended reviewing and hearing both Agenda Items #8 and #9 at once as they both related to the proposed Stonecrest Subdivision, but they will require separate action by the Planning Commission. Ms. Brockman provided an overview of the proposed subdivision and presented staff recommendations on both waiver requests, Agenda Item #'s 8 and 9.

Jason Gerhart, Integrity Federal Services (IFS), consultant on this project, stated that he did not have anything to add to Ms. Brockman's report.

Mr. Shepp opened the public hearing for Agenda Item # 8. There was no public comment. Mr. Shepp closed the public hearing for Agenda Item # 8.

Mr. Stolipher made a motion to approve Agenda Item #8, the block length waiver (22-21-PCW), as submitted; Mr. Knott seconded the motion, which carried unanimously.

Mr. Shepp opened the public hearing for Agenda Item # 9. There was no public comment. Mr. Shepp closed the public hearing for Agenda Item # 9.

Mr. Stolipher made a motion to approve Agenda Item #9, the lot width waiver (22-22-PCW), as submitted; Mr. Knott seconded the motion, which carried unanimously.

10. Public Hearing: Waiver request from Section 24.113.B.10, which requires Phase I archaeological study and a historic resources impact study to be included with the Preliminary Plat for the proposed Stonecrest Subdivision (22-11-SD). Property Owner: Flowing Springs Road, LLC; Applicant: DR Horton; Property Location: Flowing Springs Road, Charles Town, WV; Parcel ID: 02000300090000; Size: 104.98 acres; Zoning District: Residential Growth; File #22-23-PCW.

Ms. Brockman provided an overview of the request to waive the required archaeological study and a historic resources impact study with any Preliminary Plat and presented staff recommendations.

Mr. Shepp opened the public hearing. There was no public comment. Mr. Shepp closed the public hearing.

Mr. Stolipher made a motion to approve the archaeological study waiver (22-23-PCW) as submitted; Mr. Knott seconded the motion, which carried unanimously.

Mr. Shepp noted that, as the applicant was not in attendance, the Planning Commission needed to revisit the outstanding Agenda Item # 3, the Bobby and Nancy Jones Final Plat Amendment (#22-5-FPA). Mr. Knott made a motion to move the Jones Final Plat Amendment to the November 15, 2022 Planning Commission Meeting; Mr. Fisher seconded the motion, and it was approved unanimously. The staff was asked to contact the applicant regarding this action.

There is no public comment for the following items.

11. Review and Approval:

Planning Commission Calendar Year 2023 Meeting & Submission Dates

Ms. Brockman provided an overview of the proposed meeting and application calendar dates for the Calendar Year 2023, which needed to be approved, and posted on the website at this time for the January meeting. Mr. Knott made a motion to approve the calendar as submitted; Mr. Fisher seconded the motion and it carried unanimously.

12. Review and Approval: 1st Quarter FY 2022-2023 Quarterly Report (*to be distributed at the meeting*).

Ms. Brockman provided an overview of the FY 2022-2023 1st quarter Quarterly Report which the Planning Commission is required to submit to the County Commission. Mr. Stolipher made a motion to approve the quarterly report as submitted to send on to the County Commission; Mr. Fisher seconded the motion, which carried unanimously.

13. Reports from Legal Counsel

- a. Discuss and review Jefferson County Circuit Court Civil Action No. 2021-C-109. Mr. Cochran

Mr. Cochran stated that this court case is at the WV Supreme Court.

- 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.

Mr. Cochran stated that this case involves a number of actions and pieces that need to be worked out before finalization.

- c. Jefferson County Circuit Court Case #CC-19-2022-C-81 (RE: ZTA22-01 Solar Energy Facilities).

Mr. Cochran said that this case related to the language in the solar energy facility zoning ordinance text amendment.

- d. Discuss and review Jefferson County Circuit Court Civil Action No. 2022-C-85. Regarding Cell Tower.

Mr. Cochran stated that this case related to an existing cell tower challenging the proposed new tower on US 340 South.

Mr. Nathan Cochran stated that he had legal advice to give on items a, c, and d and recommended moving legal counsel to the end of agenda, which was agreed to unanimously.

Mr. Shepp has asked if a project stops when a lawsuit is filed. Mr. Cochran stated that it has not stopped at this point and he does not know if it will have to be.

12. Planner's Memo –Ms. Brockman reported that the County will be hiring of new planner for the purpose of developing the required 10 year update to *Envision Jefferson 2035 Comprehensive Plan* which will be on a future Planning Commission agenda.

13. President's Report - Discussion regarding on zoom participation.

The Planning Commission discussed and determined to allow future Planning Commission meetings to have Zoom participation only for commissioners when they cannot attend in person and to have Zoom video broadcast only for citizens to watch the meetings.

Mr. Louthan made a motion to allow public comment to be in person only and that zoom would be used for listening only and for PC Members use; Mr. Fisher seconded the motion, which carried unanimously.

14. Actionable Correspondence

15. Non-Actionable Correspondence

The Planning Commission entered into Executive Session at 7:52pm to get legal advice on Agenda Item #11, sub items a, c and d..

At 8:17 pm Mr. Knott made the motion to come out of Executive Session and Mr. Fisher seconded the motion, which carried unanimously.

Mr. Stolipher made a motion to adjourn the meeting; Mr. Fisher seconded the motion; which was carried unanimously.

The meeting was adjourned at 8:17 pm.

These minutes were prepared by Tanya Lyons Planning Clerk.