

MINUTES
JEFFERSON COUNTY PLANNING COMMISSION
APRIL 24, 2012

The Jefferson County Planning Commission met on Tuesday, April 24, 2012 with the following Commission members present: Paul Taylor, President; Ed Burns, Gene Taylor, Steve Stolipher and Walt Pellish. Staff members present included Jennifer Brockman, Director of Planning and Zoning; Seth Rivard, Planner; Steve Barney, Zoning Administrator; Jonathon Saunders, County Engineer; Stephan Groh, Prosecuting Attorney; and Amy Puetz, Planning Clerk.

Mr. Daniel Hayes, Mr. Kelly Baty, Mr. Eric Smith, and Ms. Morgan Eppers were absent with notification.

Mr. P. Taylor called the meeting to order at 7:00 PM.

1. Approval of the minutes for the April 10, 2012 meeting.

Mr. Stolipher moved to approve the minutes of the April 10, 2012 Planning Commission meeting. Mr. Pellish seconded the motion which carried unanimously.

2. Citizens Communication. None.

3. Request for postponement. None.

4. Continued from the 04/10/2012 PC Meeting: Public Hearing regarding Proposed Additional Commercial and Industrial Zoning Categories and related amendments to the Jefferson County Zoning and Land Development Ordinance.

Ms. Brockman reminded the Planning Commission of written comments by W.H. Gordon Associates that were submitted at the April 10, 2012 meeting. She explained that staff had met with representatives of the company to clarify those comments.

Mr. Barney reviewed the purpose of the amendments and gave a brief overview of the proposed zoning categories. He commented that custom manufacturing would be added as a commercial use based on comments received on April 10th. He stated that grammatical and formatting edits would be made by staff.

Mr. Pellish requested that staff provide a written response to the comments given by W.H. Gordon Associates. Mr. Burns requested that staff verbally specify the comments in the Gordon memo that would be incorporated into the amendments. Mr. Barney briefly reviewed those general comments.

Mr. Burns suggested that the Light Industrial category needed a sub-category specifically for assembly type manufacturing. He asked that Section 3.2(K), paragraph 2, be clarified to state which uses are being discussed. He commented that in Section 4.6(A), it was unclear which buildings were being discussed. Ms. Brockman explained that 4.6(A) relates to industrial uses. She stated that moving that section to a more appropriate place in the ordinance would

help clarify the regulation. Mr. Burns stated that he would like to see all suggestions incorporated into the document before the Planning Commission takes any action.

Mr. Stolipher stated that all the comments should be taken into consideration and that existing text should be clarified to simplify the document.

Mr. P. Taylor opened the floor to public comment.

Mr. J. Michael Cassell, representing the Jefferson County Shorekeepers, stated that his clients' largest concern was the Potomac River between Harpers Ferry and Shepherdstown due to its historic and environmental significance. He commented that the Pack Horse Ford Study, as mentioned in the 2004 Comprehensive Plan, should be completed before the amendments are approved. He suggested that Section 5.16(B) should be changed to specify the growth area as defined in the 2004 Comprehensive Plan. Ms. Brockman added that she would suggest that it state the 2004 Comprehensive Plan or the most current Comprehensive Plan in case there would be a change in the growth area. Mr. Cassell rebutted that the language should specify just the 2004 Comprehensive Plan since the adoption of a new comprehensive plan could not change the Zoning Ordinance. He requested that the tables throughout the document be simplified and graphically easier to read. He commented that the amendment to change the notification days to not less than 20 and not more than 28 should be eliminated and that the requirement of notification should remain 30 days. He also suggested while Section 3.2 allows discretion of the Zoning Administrator to allow similar uses not listed in the ordinance, that adjoining property owners merit some form of notification.

Mr. Chip Dorman, Harpers Ferry resident, raised concern over the discretion allowed by Section 3.2 to the Zoning Administrator and asked what process the Zoning Administrator would have for determining a use. He voiced his opposition to amending the 30 day notices to a shorter time frame. He also requested clarification on what penalties the applicant endures when there is an appeal to the Board of Zoning Appeals. He suggested researching other area governments' regulations and incorporating some of those ideas into the amendments.

Mr. Ted Schiltz, resident of Potomac Terrace, stated that the Comprehensive Plan recommends that lands east of the Shenandoah and all lands and natural conditions within 1,000 feet of the Shenandoah and Potomac Rivers and Opequon Creek remain in their natural state, not to be developed. He recommends distance requirements for each proposed district. He suggested that the proposed Planned Neighborhood Development have a larger minimum lot size to facilitate the Scenic Area Protection. He commented that he feels the Planned Neighborhood Development could be eliminated completely from the amendments.

Mr. Burns moved to close the public hearing. Mr. Pellish seconded the motion which carried unanimously.

Mr. Burns moved to table discussion until the June 12th Planning Commission meeting with the understanding that members of the Planning Commission are to receive an updated draft

3 weeks prior to the meeting. There was unanimous consent to table the discussion until June 12, 2012.

- 5. Public Hearing for Zoning Map Amendment (Rezoning) for property designated as Tax District: Harpers Ferry, Map: 9-2, Parcel: 58. This property is currently zoned Residential Growth and Residential/Light Industrial/Commercial zoning is being requested. This property is located south of Route 340 (William L. Wilson Freeway) and to the east side of Route 27/2 (Alstadt's Hill Road) just passed its intersection with Route 27 (Millville Road) and is a total of 8.98 acres. The owner of record is Gene Capriotti.**

Mr. Rivard reviewed the location of the property.

Ms. Annette Van Hilst, representing Mr. Gene Capriotti, gave a presentation of the project including location, purpose of the request, and compliance with the draft US 340 Gateway Plan. She distributed her power point presentation in paper form to the Planning Commissioners and staff. She explained that there was no specific use being proposed and that the request is due to the reduction of land available for commercial or mixed use development. She cited many major changes to the area. She rebutted the staff report stating that concerns regarding traffic, landscaping, and view sheds should be discussed at the site plan stage, not during a rezoning request. She commented that, while the 2004 Comprehensive Plan does not state a need for rezoning along the 340 Corridor, two of the subject parcels neighboring properties have been granted a rezoning by the County Commission within the past year. She addressed staff's concern on the impact of light industrial uses by stating that current regulations would not permit those uses on the property. She stated that the rezoning should not have to wait 6 months until the US 340 Gateway Plan is adopted as recommended by staff since there is no guarantee that the document will be approved or that approval will only take 6 months. She defended the request reminding the Planning Commission that the subject property was surrounded on three sides with properties zoned Residential/Light Industrial/Commercial.

Mr. Rivard presented his staff report and suggested that the Planning Commission forward the request onto the County Commission with a recommendation of denial with the reasoning that the request was not in compliance with the 2004 Comprehensive Plan. He stated that staff recommends that the applicant wait 6 months to allow for the US 340 East Gateway Corridor Study to be finalized which would provide recommendations regarding land use and traffic impacts. He commented that waiting would also allow the possibility of new zoning categories which would provide for a better planning tool for this area.

Mr. Rivard read from a letter provided by Rebecca Harriett of the National Park Service opposing the rezoning request. The letter stated that the request was overly broad and allowed uses that could be out of context with the character of the area creating a negative impact on the area's historic values and uniqueness.

Mr. P. Taylor opened the public hearing.

Ms. Beth Marrone, adjoining property owner, spoke in opposition of the rezoning stating she believed that area would stay residential when she purchased her home 16 years ago. She raised concern that traffic could potentially become much worse depending on the use that would be placed on the property. She described the easement running through the subject property and explained that easement is used as an access to her home. She also commented that additional traffic could exacerbate already hazardous traffic situations.

Dr. James Gibson, owner of Alstadt property, spoke in support of the rezoning. He stated that the area had been used commercially for many years and that commercial uses are appropriate for that area. He raised concern that the staff referenced the US 340 East Gateway Study in the staff report when that document had not been approved.

Mr. Eric Sokol, area resident, spoke in support of the rezoning request. He stated that the area should be rezoned as an opportunity to allow for outdoor tourism. However, he did confirm traffic issues in the area.

Ms. Mary McGreevy, adjoining property owner, spoke in opposition of the rezoning request. She raised concern that there was no specific use for that property being proposed and that she did not want River Riders to use that property to expand their business. She spoke of existing traffic issues. She commented on the aesthetics of the area and stated that the viewshed should be protected.

Mr. Stolipher moved to close the public hearing. Mr. G. Taylor seconded the motion which carried unanimously.

Ms. Van Hilst addressed public comments. She reiterated that Light Industrial uses would be limited by regulations and standards and would be discussed when a Site Plan is submitted. She commented, in regards to the National Park Service (NPS) letter, that the property is not within the approved park boundaries and should not be a concern to the NPS. She referenced the Alstadt property stating that parcel contains a home on the historic registry and yet had been recently rezoned to the same zoning category her client was requesting. Ms. Van Hilst stated that the easement that runs through the property that Ms. Marrone uses to access her home would remain in place. She commented that traffic was an existing issue and that a change in zoning would not have significant impact on traffic. She stated that current zoning would allow for more than 50 townhomes which would significantly impact the traffic issues whereas the requested zoning would carry a much more limited use.

Mr. Pellish voiced disagreement with the staff report and stated that the rezoning request is in conformance with the Comprehensive Plan. He also voiced his opposition to the US 340 Gateway Plan. He addressed traffic issues and stated that roads need to be widened. He stated that this parcel is ideal to support efforts in the tourist industry. He reported that this request is an excellent opportunity to increase tax revenue. He stated he strongly supported the request.

Mr. Stolipher moved to forward the request to the County Commission recommending approval since the request is consistent with the 2004 Comprehensive Plan. Mr. Pellish seconded the motion.

Mr. Burns commented that the Capriotti family, the owners of the subject property, had a vested interest in the community and for that reason, he believed nothing detrimental to the area would be placed on that property. He voiced support of the rezoning request and felt that the request was consistent with the 2004 Comprehensive Plan.

Mr. G. Taylor commented on the commercial history of that area and stated that area will continue to grow. He voiced support of the request.

Mr. P. Taylor questioned what control the County had regarding what use is allowed there if the rezoning request is approved. Ms. Brockman explained that the zoning category permits a variety of uses. She stated that the County would require a review of the site plan which would ensure that regulations and requirements are met for any use proposed. She reported that the County would not be able to deny a use that is considered a permitted use for that zoning category although regulations, such as setback and distance requirements, may prevent a use from occurring on a particular property.

Mr. Pellish voiced sympathy of Ms. Marrone's concerns and requested that Ms. Van Hilst speak with her client to recommend an agreement from Mr. Capriotti to the Marrones allowing for some sort of compensation such as shielding of the property or improvement of the access.

The motion on the floor passed unanimously.

Mr. P. Taylor called for a break at 8:45 PM. Mr. P. Taylor called the meeting back to order at 8:53 PM.

6. **Final Plat Public Hearing for the Harvest Hills Subdivision (PC File #12-02). The property is to consist of 22 single-family lots on 8.84 acres. The property is located on the east side of Route 17 (Flowing Springs Road) and the south side of the CSX Railroad where the two intersect. The owner of the property is Arcadia Development Co. This property is designated as Tax District: Shepherdstown, Map: 24, Parcels: 12 and 13.**

Mr. Rivard read from his staff report. He explained that the access to the section being reviewed is through a portion of the subdivision that was currently carried a tolled bond. He reported that staff had met with Ms. Carla Coffey, of Arcadia Development, who agreed to several conditions to approval. Mr. Rivard recommended approval of the Final Plat with the following conditions:

- a. No construction would commence and no sale of lots platted in this phase to any outside entities will be allowed until the tolled bond for Phase II, Section 1 and also for this phase has been posted.

- b. A merger deed will be submitted to the Engineering Department for the lots being final platted to allow for the lots of this phase to be merged and for this phase and the previous phase to be merged if the applicant defaults on the tolling agreement.
- c. A Department of Highways (DOH) entrance permit is obtained.
- d. The Conditional Use Permit (CUP) conditions and how and when those conditions are to be met will be required with each phase upon Final Plat submission.

Mr. Barney explained the responsibility of staff to address how and when the CUP conditions will be met. He stated that, for Harvest Hills, a letter from the DOH stating that improvements to the curve on Flowing Springs Road and a traffic light at the entrance of the subdivision are not necessary at this time would be sufficient.

Mr. Randy Keppler, of Greenway Engineering, confirmed that his client, Arcadia Development, had agreed to the conditions regarding the tolled phase. He stated that he could provide a copy of the DOH entrance permit that was submitted during the Preliminary Plat review. He addressed the conditions of the CUP. He stated that the Highway Department had not yet notified the developer that any improvement to the curve on Flowing Springs Road or that a traffic light was presently necessary and that the DOH had been monitoring the traffic situation. He reported that one of the conditions of the CUP included a fence which would be included in the bonding agreement. He requested that the final plat not be stalled due to these conditions.

Mr. Peter Chakmakian, representing Arcadia Development, explained why the developer was submitting another phase of the subdivision when the previous phase is tolled. He reported that a final plat needed to be submitted to keep the project from expiring due to Jefferson County timeframes.

Ms. Carla Coffey, of Arcadia Development, confirmed that Arcadia intended to toll the bond for this phase also.

Mr. Barney stated that an email or letter would be required from the DOH stating that improvement of the curve on Flowing Springs Road and that a traffic light are not necessary at this time. Ms. Coffey asked that this not be a condition of approval. She stated that she has requested a letter from the DOH and that she would provide staff a copy upon her receipt of that letter. However, she raised concern that there would only be 90 days to bond and record the Final Plat and she could not force the DOH to provide a letter within that timeframe.

Mr. P. Taylor opened the public hearing. There was no public comment. Mr. Stolipher moved to close the public hearing. Mr. Burns seconded the motion which carried unanimously.

Mr. Stolipher moved to approve the final plat with two of the conditions: 1) No construction would commence and no sale of lots platted in this phase to any outside entities will be allowed until the tolled bond for Phase II, Section 1 and also for this phase has been posted. 2) A merger deed will be submitted to the Engineering Department for the lots being final

platted to allow for the lots of this phase to be merged and for this phase and the previous phase to be merged if the applicant defaults on the tolling agreement. Mr. Pellish seconded the motion which carried unanimously.

7. **Final Plat Public Hearing for the Cambridge Manufactured Home Development Subdivision (PC File #12-03). The property is to consist of 2 mobile home lots on 27.0671 acres. The property is located on the south side of Route 17/5 (Flowing Acres Road) and 0.31 miles east of its junction with Route 17 (Flowing Springs Road). This property is designated as Tax District: Charles Town, Map: 8, Parcel: 32.13.**

Mr. Rivard read from his staff report and recommended approval.

Mr. Dirk Stansbury, project engineer, gave a short presentation of the project. He requested that a bond tolling system be created for Cambridge. Ms. Brockman explained the tolling system and recommended that Mr. Stansbury speak with Ms. Becky Burns, Engineering Department Office Manager.

Mr. P. Taylor opened the public hearing. There was no public comment. Mr. Burns moved to close the public hearing. Mr. G. Taylor seconded the motion which carried unanimously.

Mr. Burns moved to approve the Final Plat. Mr. Stolipher seconded the motion which carried unanimously.

8. **Reports from Legal Counsel and legal advice to PC.**

Active Litigation:

- **Far Away Farms**
- **Cedar Meadows Airpark**

Mr. Groh presented the Planning Commission's Opposition to Summary Judgment and Cross Motion (11-C-325, 326, 327, and 328) in the Far Away Farms case. He explained the case would be heard on May 7, 2012. He stated there were no other issues.

9. **Director's Report.**

Ms. Brockman presented two articles regarding the planning of road improvements to US 340 between the Shenandoah and Potomac River bridges. She stated that a tri-state (WV, VA, and MD) committee had been formed to begin discussions.

Ms. Brockman reported that she would be presenting the quarterly report to the County Commission and requesting clarification on the priorities of staff regarding the 2014 Comprehensive Plan and the suggested US 340 South Corridor Study. She stated that a summer intern had been hired to assist in research for the 2014 Comprehensive Plan.

Ms. Brockman presented a letter from the Jefferson County Citizens for Economic Preservation (JCCEP) which proposed an amendment to the Subdivision Regulations to extend Senate Bill 595 to July 1, 2015. She stated that this amendment would be submitted to the County Commission by a JCCEP representative soon.

10. **County Commission Liaison Report.** None.

11. **Planning Commission Exchange.**

- **Report from the Health Department Meeting Liaison.** None.
- **Report from the Public Service District Meeting Liaison.** None.
- **Report from the Parks and Recreation Meeting Liaison.**
Mr. G. Taylor stated that Parks and Receptions have been discussing the possibility of purchasing the old 3M property in Middleway for park area.
- **Report from the Jefferson County Development Authority Meeting Liaison.**
Mr. Burns reported that there had been a meeting with Representative, Shelly Capito that was productive.
- **Report from the Water Advisory Committee Meeting Liaison.** None.

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

13. **Actionable Correspondence.** None.

14. **Non-Actionable Correspondence.** None.

Mr. G. Taylor moved to adjourn the meeting at 9:45 PM. Mr. Burns seconded the motion which carried unanimously. An audio recording and/or a video recording of the meeting may be found on our website. These minutes were prepared by Amy Puetz, Planning Clerk.