

Minutes
Jefferson County Planning Commission
February 12, 2013

The Jefferson County Planning Commission met on February 12, 2013, with the following Commission members present: Daniel Hayes, Vice President; Eric Smith, Secretary; Steve Stolipher, Morgan Ethers, Gene Taylor, J.P. Phillips, Walt Pellish and Kelly Baty. Staff members present included Jennifer Brockman, Director of Planning and Zoning; Seth Rivard, Planner; Steve Barney, Zoning Administrator; Stephen Groh, Assistant Prosecuting Attorney and Jennilee Hartman, Zoning Clerk.

Paul Taylor, President, was absent without notification. In the absence of Mr. Paul Taylor, Mr. Gene Taylor will be referred to as *Mr. Taylor* exclusively for the purpose of these minutes.

Mr. Hayes presided over the meeting in Mr. Taylor's absence and called the meeting to order at 7:03 p.m.

1. Approval of the minutes for the January 8, 2013 meeting.

Mr. Haynes suggested the Commission take action on the minutes at following meeting due to the fact that they did not receive the minutes in sufficient time to review them for accuracy. The Commission agreed.

2. Citizen Communications (hereinafter known as CC).

Fred Blackmer, requested that the Commission grant him time to speak at the end of the agenda with regard to two major concerns with the Morgan's Grove Market (MGM). Mr. Blackmer stated the County Commission has taken a similar approach with requests on their agenda in the past. Mr. Blackmer was aware of the fact that the item would not be actionable however he was looking for direction from the Planning Commission as to what course MGM should follow considering these two major issues since they were unable to get clear direction from Staff. Mr. Groh was concerned that the item Mr. Blackmer was asking to be heard would not meet the open meetings act which requires an item to be advertised at least 2 days in advance of a meeting. The Commission discussed whether or not the issues should be heard by the applicant at the end of the meeting. Mr. Hayes offered, and the Commission agreed, to hear Mr. Blackmer's concerns regarding MGM under the President's Report (Item #7) though they would not be taking action.

3. Request for postponement. None.

4. Request for a waiver from Appendix B, Section 9.6 of the Jefferson County Subdivision and Land Development Regulations to remove the curb and gutter requirements from the internal roads, driveways and parking lots for the proposed Hite Park Site Plan (PC File #S11-15). This project consists of walking trails, picnic and park areas, athletic fields, sports courts, a skate park, miniature golf course, and sports support facilities to be dedicated for public use. Property owner: Jefferson County Parks and Recreations Commission. Property location: Tax District: Middleway; Tax Map: 9 Tax Parcel: 2.17; Size: 119 acres; Zoned: Rural; File: PCW13-01.

Mr. Groh advised Mr. Taylor to recuse himself as he is a member of the Parks and Recreation Commission. Mr. Taylor recused himself and stepped out of the room for the duration for the discussion.

Mr. Rivard provided the Commission with a PowerPoint giving a brief overview of the location of the property and description of the proposal. Mr. Rivard stated the request was from the technical requirements of the Regulations and therefore the Planning Staff defers to the Engineering Staff for recommendation. At the request of Mr. Hayes, Mr. Rivard reviewed the four criteria required for granting a waiver. Zac Lette from Land Planning and Design (LPD) represented the request to the Commission. Mr. Lette explained that the need for curb and gutter is nonessential due to the low impact design of the development and therefore

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the cost savings realized to the Commission would be beneficial in that the funds could be utilized elsewhere. Mr. Lette also described the natural terrain of the property and with the proposed stormwater management design consisting of sheetflow and vegetative grass swales. Mr. Saunders reviewed the section of the Regulations that the applicant is seeking a waiver from. Mr. Saunders stated an applicant need not install curb and gutter if they can demonstrate that low impact development (LID) techniques that would minimize the impact of impervious surfaces are being utilized. While the applicant is providing such features as vegetative grass swales, the applicant is not providing documentation which shows that the swales alone are sufficiently addressing stormwater runoff. Mr. Saunders concluded by stating that he believed the applicant met the four criteria necessary for the Commission to grant the waiver and therefore recommends approval. The Commission had additional questions regarding the requirements for LID and the applicants' proposed vegetative grass swales.

Mr. Hayes opened the floor for public comment. Mr. Stolipher motioned to close public comment. Mr. Smith seconded, which carried unanimously.

Mr. Stolipher motioned to approve the waiver stating that the applicant meets the four criteria, as noted in the Engineer's report. Mr. Smith seconded the motion, which carried unanimously.

Mr. Taylor returned to the meeting room for the duration of the meeting.

Mr. Hayes requested that Item #10 President's Report be heard at this time to address Mr. Blackmer's concerns.

Mr. Pellish motioned to allow Mr. Blackmer and Mr. Peter Corum to discuss with the Commission two major issues they have with Planning Commission Staff's direction. Mr. Stolipher seconded the motion, which carried 5 for, 2 opposed (Mr. Taylor and Mr. Baty) and Ms. Etters chose to not vote on this issue. Mr. Groh clarified that no action could be taken on this matter.

Mr. Blackmer stated his first issue is that they do not have a permit number from the West Virginia Department of Highways (DOH) to present to the Planning Staff in order for the Staff to sign off on the office checklist for approval of the site plan. Mr. Blackmer stated the second issue is the sewer connection with the Corporation of Shepherdstown. Mr. Blackmer explained they have submitted four letters to the Planning Office that were written from Shepherdstown stating they had capacity, however because they do not contain a permit number the Planning Staff will not approve the site plan. Mr. Smith summarized Mr. Blackmer's presentation stating that the Planning Department cannot sign off on the checklist to approve the site plan because the Staff does not have the approval (permit) numbers by the state (agencies). Mr. Smith asked if the Staff had any letters or correspondence that would suffice until the approvals were in place. Mr. Blackmer stated that is what they are trying to determine what Staff wants. Mr. Blackmer states they have letters of capacity and emails from the DOH. Mr. Smith addressed Ms. Brockman and asked if a capacity letter was suitable for site plan approval. Ms. Brockman stated that they needed approvals in place and not capacity letters; however she would need to defer to the County Engineer. Mr. Hayes asked the status of the grading permit. The permit has not been issued. Mr. Baty stated it appears that the project does not have the necessary approvals from the DOH or for water and sewer in place for the Staff to approve the site plan. Ms. Brockman wished to clarify that the letter from Shepherdstown Mr. Blackmer provided to the Commission is the first the Staff has heard of the City receiving any plan for review. Ms. Brockman also stated that the office does not review any plans for water or sewer and that the Planning office only wants to know the plans have been approved and needs a copy of the approved plans for the files. Mr. Rivard also pointed out that the office cannot allow a site to be developed without the ability to have water and sewer connections. Mr. Rivard also stated that the Board of Zoning

Appeals (BZA) made the water and sewer connections a requirement of the conditional use permit (CUP) and therefore an onsite system is not possible. Mr. Hayes agreed that all plans must be approved. Mr. Smith stated that the applicant was before the Commission seeking guidance and that he suggests that they go before the Highway Department and the Shepherdstown and attempt to get the wheels turning there as well.

Mr. Pellish asked for clarification on the four letters they have received regarding water and sewer. Mr. Pellish wanted to know how four letters were not able to reach Staff. Mr. Rivard stated the letter Mr. Blackmer submitted this evening was dated 7 days from the date of the meeting. Ms. Brockman stated the office had never received this particular letter. Mr. Blackmer stated the first letter was submitted to the County Commission when they first petitioned for a rezoning, the second was submitted to the BZA when making application for the CUP, Mr. Blacker stated the third capacity letter was one sent to him at his own request by the Director of the Department of Public Works and the fourth is due to a meeting they had with the Utility Board after submitting an application for their mainline extension process approximately 4 – 5 weeks ago, along with a fee and design package. Ms. Brockman wished to clarify that the fourth letter is different than the last three letters. The last letter states the Board has the plans in hand and is agreeing to the mainline extension. It does not get the approval yet however it is a step in the right direction. Mr. Saunders commented on the DOH approval stating he had been in contact with the DOH and is working with them.

5. **Reports from Legal Counsel and legal advice to the Planning Commission.** None.

6. **Active Litigation:** None.

- Far Away Farms. Active.
- Cedar Meadows Airpark. Active.

7. **Director's Report.**

Ms. Brockman reviewed her Director's Report with the Commission. See a copy of the report in February 8, 2013 Planning Commission Packet.

8. **Monthly Development Activity Report.** None.

9. **Liaison Reports:** None.

- County Commission Meeting
- Health Department Meeting
- Public Service District Meeting
- Parks and Recreation Meeting
- Jefferson County Development Authority Meeting
- Water Advisory Committee Meeting

Mr. Baty had concerns regarding ex parte communication. It was explained that if it is a general topic they are permitted to talk to the public however if it is specific to an item on an agenda that it would be best not to discuss it with the public. It was also mentioned that if the Commissioner stated at the onset of the meeting that they had discussed a specific topic with a member of the public that they still be able to participate during that Item.

10. **President's Report.** Heard after Item #4.

11. **Actionable Correspondence.** None.

12. **Non-Actionable Correspondence**

13. **Signing of approved Motions from previous Planning Commission meetings.**

Mr. Stolipher motioned to adjourn the meeting at 8:19 p.m. Mr. Smith 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 Jennilee Hartman, Zoning Clerk.