

Minutes
Jefferson County Planning Commission
March 12, 2013

The Jefferson County Planning Commission met on March 12, 2013, with the following Commission members present: Daniel Hayes, Vice President; Steve Stolipher, Gene Taylor, J.P. Phillips, Walt Pellish and Kelly Baty. Staff members present included Jennifer Brockman, Director of Planning and Zoning; Seth Rivard, Planner; Jonathan Saunders, Engineer; Roger Goodwin, Chief County Engineer; Stephen Groh, Assistant Prosecuting Attorney; J.T. Redmon, Project/Office Manager; and Jennilee Hartman, Zoning Clerk.

Paul Taylor, President, was absent with 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 7:00 p.m.

1. Approval of the minutes for the January 8, 2013 and February 12, 2013 meetings.

Mr. Stolipher motioned to approve the minutes of the January 8, 2013 Planning Commission meeting. Mr. Hayes seconded the motion, which carried 2 for, 0 opposed, 3 abstentions (Mr. Phillips, Mr. Taylor and Mr. Pellish).

Mr. Stolipher motioned to approve the minutes of the February 12, 2013 Planning Commission meeting. Mr. Pellish seconded the motion, which carried unanimously.

2. Citizen Communications (hereinafter known as CC). None.

3. Request for postponement. None.

4. Proposed revision to the approved Community Impact Statement (CIS) for the Old Route 340 Business Park Subdivision, to divide an existing 7.976 acre commercial business park into three marketable non-residential lots. (PC File #04-34). The property is located at 99 Cary Lu Circle, Harpers Ferry, WV, East of Halltown Road located off of Old Route 340, approximately 300 feet from US Route 340. District Harpers Ferry, Map 11; Parcel 7. Bank of Charles Town is the owner/developer.

Mr. Rivard provided the Commission with a PowerPoint presentation giving a brief overview of the location of the property and description of the proposal. He explained the project began before the 2008 Subdivision Regulations were adopted. Thus, the subdivision would be reviewed under the 1979 Subdivision Ordinance.

Mr. Mike Shepp of Appalachian Surveys presented for the owner/developer. Mr. Grant Whitmore was present as Bank of Charles Town's representative. Mr. Shepp provided a quick summary of the history of the project. He stated that the previous owner/developer received a Planning Commission variance to establish three principal uses on the property and bonding was secured for improvements. While most of the improvements were completed, bonding was still in place for the remainder. Marketing the property as one parcel with several uses had not proven marketable, but the Bank of Charles Town received several letters of intent and contingency offers for two of the proposed lots. In January 2013, the owner/developer secured the necessary Board of Zoning Appeals variances to move forward with a revision to the CIS and the Final Plat to create a conventional commercial subdivision of three lots, with the intent to sell those to separate buyers.

Mr. Hayes opened the floor for public comment. There was none. Mr. Stolipher motioned to close public comment. Mr. Taylor seconded, which carried unanimously.

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Mr. Stolipher motioned to approve the amended Community Impact Statement (CIS) for Old Route 340 Business Park to allow for the subdivision of the existing lot into 3 lots. Mr. Pellish seconded the motion, which carried unanimously.

5. **Final Plat Public Hearing for the Old Route 340 Business Park Subdivision, which is to divide an existing 7.976 acre commercial business park into 3 marketable non-residential lots (PC File #04-34).** The property is located at 99 Cary Lu Circle, Harpers Ferry, WV, East of Halltown Road located off of Old Route 340, approximately 300 feet from US Route 340. District Harpers Ferry Map 11; Parcel 7. Bank of Charles Town is the owner/developer.

Mr. Rivard explained to the Commission the purpose of the Final Plat was to follow the intent of the recently approved CIS amendment. Staff recommended approval.

Mr. Mike Shepp of Appalachian Surveys stated there were no additional comments from the owner/developer.

Mr. Hayes opened the floor for public comment. There was none. Mr. Stolipher motioned to close public comment. Mr. Taylor seconded, which carried unanimously.

Mr. Stolipher motioned to approve the Final Plat for Old Route 340 Business Park. Mr. Pellish seconded the motion, which carried unanimously.

Mr. Stolipher recused himself. Director Brockman stated that without Mr. Stolipher's presence the Commission would lack a quorum. Attorney Groh left the room to research the issue. Mr. Hayes affirmed that the applicant was amenable to a shift in agenda items. The Commission tended to Agenda Item #7.

7. **Presentation by Matt Pennington with the Eastern Panhandle Regional Planning and Development Council, Region 9, regarding The Region 9 Model Stormwater Ordinance.**

Mr. Pennington, Chesapeake Bay Coordinator, updated the Commission on Region 9's activities related to the grant obtained in November 2012. Two components of the grant were addressed: 1) the establishment of a stand-alone Stormwater Management Ordinance and 2) a County ordinance review by Delta Development to identify any barriers in place which could potentially prevent the reduction in the amount of impervious surface area required. He stated a stakeholder meeting and public forum were previously held. An informational report and proposed working schedule were referenced. Mr. Pellish questioned how the proposed changes would protect the citizens of Jefferson County. He asked questions and doubted the efforts being proposed and disagreed with the Environmental Protection Agency actions. Discussion ensued. Director Brockman informed the Commission for the need to call two future meetings: 1) March 26, 2013, a workshop meeting, not for public input, but for the Commission to be informed on the consultant's findings of the ordinance review and their proposals for ordinance changes, and 2) April 23, 2013, a public hearing on Jefferson County Subdivision Regulations amendments based on Region 9's stand-alone Stormwater Management Ordinance. Mr. Hayes, as Acting President, called both of the requested meetings.

Mr. Baty arrived at 7:16 PM. A quorum for Agenda Item #6 was established. Mr. Stolipher recused himself and left the room.

6. **Request by applicant Pete Kubic to be represented by Kristen Stolipher with W.H. Gordon and Associates for a waiver from Jefferson County Subdivision and Land Development Regulations Section 20.201(B)2 and Section 21.401 to facilitate a proposed subdivision to separate an existing commercial building and two proposed buildings on Lot 18A into 3 marketable non-residential lots within the Burr Industrial Park.** Property owner: Burr SK Limited Liability Company. Property location: 120 Commerce Circle, Kearneysville WV 25430. Tax District: Charles Town; Map: 1; Parcel: 71; Size: 9.06 acres; Zoned: Industrial-Commercial; File: PCW13-10.

Mr. Rivard provided the Commission with a PowerPoint presentation and gave an overview of the proposal, reviewing the site's current and expected future conditions. Mr. Rivard reported that the applicant's intent was to utilize the existing infrastructure as opposed to creating an extensive culvert system to traverse the existing stormwater management area. Staff recommended approval.

Mrs. Kristen Stolipher of Gordon Associates was present to represent the owner/developer. She noted that a letter of support for the waiver was received from the Jefferson County Development Authority.

Mr. Hayes opened the floor for public comment. There was none. Mr. Pellish motioned to close public comment. Mr. Taylor seconded, which carried unanimously.

Mr. Baty questioned staff regarding the potential for setting precedents with granting approval of the waivers requested. Mr. Rivard responded stating specific site elements, such as dual access to Lot 3, limited any precedent setting potential for reliability of access to a lot. Director Brockman confirmed the Staff's recommendation for approval included the expectation of a condition of a cross-access easement to ensure there would never be an impediment to Lot 3's access. Attorney Groh asked staff if their recommendation was for access easements to lie over both lots. Mr. Rivard affirmed.

Mr. Phillips questioned Staff regarding the Board of Zoning Appeals (BZA) variances requested in relation to this project. Mr. Barney explained the variances would be from setback requirements created through the establishment of new lot lines. Landscaping, parking and access aisle requirements would be affected. He believed the BZA variance requests to be reasonable.

Director Brockman explained that the reason a Final Plat public hearing was not scheduled for this project in front of the Commission was due to the fact that it would be processed under the current Subdivision Regulations. Under the current Subdivision Regulations, a Final Plat can be processed administratively when the plat is in an approved major non-residential subdivision with master planned stormwater management and roads. Thus, the current waiver public comment period and the BZA variance public comment period would be the final time the public would have to comment on this project. Mr. Taylor questioned staff as to the timeframe required for the Final Plat recordation to occur. Director Brockman clarified there was no requirement that a Final Plat for this subdivision ever be recorded. Rather, the Commissions' approval of the waivers provided the owner/developer the ability to process a subdivided Final Plat.

Mr. Pellish motioned to approve the requested waivers of Sections 20.201(B)2, reduction of the required 50' right-of-way to a 22' access easement to match the existing travelway, and 21.401, to allow on occasions temporary blocking of the access easement, for Burr SK Limited Liability Company with the condition that the Final Plat shall show the drive aisles as shared access easements for Lot 3 to access to an internal subdivision road and should include a note about the potential for limited obstruction.. Mr. Taylor seconded the motion, which carried unanimously.

Mr. Stolipher returned to the room.

8. Request by Fred Blackmer to discuss and update the Planning Commission on the status of the grading permit, site plan and Morgan's Grove Farm Market processes (PC File #S12-06).

Mr. Peter Corum, representative for Morgan's Grove Market, introduced issues regarding processing the site plan. Mr. Fred Blackmer, representing Twin Oaks Subdivision, LLC, the principal of the Morgan's Grove Market project, and Mr. Dirk Stansbury, a civil engineer, were also present. Mr. Blackmer followed Mr. Corum explaining concerns that insignificant issues present in the current stage of processing was continuing to hinder the completion of staff reviews. He requested the Planning Commission instruct the Department to place the Site Plan on the next possible meeting Agenda for action and suggested that any comments about the Site Plan from staff be added to the Planning Commission's approval as conditions of approval. The cover sheet of the most recent Site Plan Review Checklist was provided to the Commission. Mr. Blackmer referenced this document during his presentation.

Attorney Groh instructed the Commission stating the applicant's request for action during their presentation was an unactionable item due to the fact that the request for action was not an actual item on the Commission's agenda. Mr. Hayes questioned staff as to the requirements necessary to move the project forward. Director Brockman informed the Commission on the state law requirements for a completed site plan and reminded them of their action on a previous request by the same applicant to waive completion requirements. Mr. Hayes specified two separate issues to be addressed: 1) getting the item onto an agenda, and 2) minimizing insignificant back and forth commenting between parties. Director Brockman stated that once the comments were addressed the only outstanding issue would be the permit numbers required by the state. Mr. Pellish asked for clarification regarding the issue of obtaining permit numbers. Mr. Blackmer responded that the permit numbers are administrative and pending, but staff hasn't stated that the remainder of the plan actually meets the technical requirements of the ordinance. Director Brockman clarified that the comments outstanding are technical requirements from an initial review that the applicant has not corrected. Mr. Pellish asked if a formal request to be on the Agenda could be submitted by the applicant in an effort to move the project forward. Attorney Groh stated the applicant could request a waiver from the staff's requirement to find the project complete before forwarding it to the Planning Commission, but if the waiver was approved and the project came before the Planning Commission incomplete, it would be found incomplete and the applicant would be in the same position as present. Mr. Baty remarked that he believed it to be typical of staff to be truthful and forthcoming and that it appeared from what staff was saying that the project had outstanding requirements to be met in addition to obtaining permit numbers. Mr. Saunders commented that the applicant may at any time submit questions and requests for clarification in writing and the Department will address those. Mr. Stolipher reminded the applicant that the Commission's responsibility was not to change the policies and procedures but rather to ensure the process in place was being followed. He suggested the next time the applicant appear before the Commission, he have in place an actionable item. Attorney Groh clarified the applicant could provide a written request to the staff to be placed on the next Agenda for the Planning Commission to determine completeness. At that meeting, the Planning Commission would determine completeness, but if completeness was lacking, the applicant could not request a public hearing because completeness is a requirement by state law. Mr. Rivard clarified for the Commission that if the applicant came before them to determine completeness, their only finding could be complete or not complete. The Site Plan could be approved, approved with conditions or denied.

9. Update on the 2014 Comprehensive Plan.

Director Brockman stated that Envision Jefferson 2035 was progressing well. In the past six weeks there were four public meetings and the most well attended meeting focused on the agricultural community. The next Steering Committee meeting would be March 19, 2013, in the Planning Commission meeting room. The meetings are open to the public. They cannot speak, but can provide written comments. A summarized report of the public comments will be provided to the committee for the purpose of assisting them with starting to formulate philosophical goals and objectives for growth. Last month the Steering Committee met with the County Commission. They will meet again with the Commission in July. The Brown Bag Lunch and Learns (BBL) have been well attended. The BBL meeting that was cancelled March 6, 2013, was rescheduled for April 17, 2013, and the emergency services personnel will be scheduled to present. The BBL meeting scheduled for March 13, 2013, will have federal installations providing presentations.

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

11. Active Litigation: None.

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

12. Director's Report.

Director Brockman introduced JT Redmon, Project/Office Manager and stated the interviews for Planning Clerk were underway. She reminded the Commission the Ethics & Roberts Rules of Order training is scheduled for April 11, 2013, but R.S.V.P. is by March 12, 2013.

On March 7, 2013, the County Commission approved the Aitcheson Family Trust rezoning on Campground Road near the KOA. No other rezoning requests are outstanding. The County Commission requires the Planning Department to hold Planning Commissioner training yearly. This year it will be scheduled in May so any new Commissioners can attend. Kelly Baty, Morgan Etters and Eric Smith's terms end in March. At two of those seats will need to be replaced, possibly three.

Director Brockman reported that she would be attending the National American Planning Association Conference April 12 through 17, 2013. An all-day session will address Comprehensive Plans. Afterwards she expects to train the Planning Commission on their role in Comprehensive Planning and update them on the information she obtains from the conference.

Jefferson County's Legal Department is reviewing the law regarding the Sherriff participating on the Steering Committee. Mr. Dougherty may need to step down due to legal limitations placed on his extracurricular activities.

13. Monthly Development Activity Report. None.

14. Liaison Reports:

- County Commission Meeting

Mr. Pellish reported the County Commission was currently working on the budget. He also thanked Mr. Baty for his service to the County since he would not be present at the next Planning Commission meeting.

- Health Department Meeting

Director Brockman reported that the Health Department hired a new administrator, George Bernardino. Additionally, Todd Fagan, GIS Department Director, in conjunction with the Planning and Zoning and Engineering Departments were working with the Health Department on a Request For Proposal to create a database of paper documents that will link all corresponding information to property location.

- Public Service District Meeting – None.
- Parks and Recreation Meeting – None.
- Jefferson County Development Authority Meeting – None.
- Water Advisory Committee Meeting – None.

15. President's Report. None.

16. Actionable Correspondence. None.

17. Non-Actionable Correspondence. None.

Mr. Stolipher requested staff email the absent Commissioners regarding the March 26, 2013 meeting. Mr. Hayes suggested a Planning Commission Exchange agenda item be placed on the next agenda.

18. Signing of approved Motions from previous Planning Commission meetings. None.

Mr. Stolipher motioned to adjourn the meeting at 8:33 PM. Mr. Taylor 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 Jennifer Snyder, Temporary Planning Clerk.