

Jefferson County Planning Commission
May 14, 2013

The Jefferson County Planning Commission met on May 14, 2013, with the following Commission members present: Paul Taylor, President, Daniel Hayes, Vice President; Steve Stolipher, Gene Taylor, Walt Pellish, Wade Louthan, Gary Phalen, and Darlene Truman. Staff members present included Jennifer Brockman, Director of Planning and Zoning; Seth Rivard, Planner; Steve Barney, Zoning Administrator; Jonathan Saunders, Engineer; Stephen Groh, Assistant Prosecuting Attorney; Jennilee Hartman, Zoning Clerk, and Alexandra Beaulieu, Planning Clerk.

Mr. Phillips was absent with notification.

Mr. P. Taylor called the meeting to order at 7:04 p.m.

1. **Welcoming of new Planning Commissioners and Staff.**
2. **Election of open office: Secretary.**

Mr. Hayes motioned to nominate Mr. G. Taylor. Mr. Stolipher seconded the motion, which carried unanimously.

3. **Approval of the minutes for the March 12, 2013 meeting.**

Mr. Hayes motioned to approve the minutes. Mr. P. Taylor requested the following change be made: "Paul Taylor, President, was absent *with* notification."

Mr. Stolipher seconded the motion, which carried unanimously.

4. **Citizen Communications (hereinafter known as CC).** None.
5. **Request for postponement.** None.
6. **Request for a waiver from Section 20.201.A.2 of the Jefferson County Subdivision and Land Development Regulations requiring the existing 40' wide right of way to be widened to the required 50' to create a 35 acre single family residential lot (File #PCW13-03).** The property is located at 478 Undergrace Lane, Charles Town, WV. Tax District Kabletown (06); Map 2; Parcel 1.4. Dale and Patricia Shockey are the owners.

Mr. Rivard provided the Planning Commission with a PowerPoint presentation giving a brief overview of the location of the property and description of the proposal.

Mr. Hayes requested clarification as to whether the waiver request, if granted, could be limited to just this lot so that any future subdivisions would need to process their own waiver request. Mr. Rivard confirmed that the waiver would in fact apply only to the lot listed on the application if the Planning Commission made a motion to that effect.

Mr. P. Taylor opened the floor to the applicant. Ms. Patricia Shockey spoke on behalf on the applicants and stated that the 35 acre lot would be sold as a single family lot with the intent of a single dwelling and not a development so as to keep in line with the current "country" feel of the surrounding lots. She stated they made the decision to subdivide and sell this lot to pay off their farm.

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

Ms. Chanell Cain spoke first. She stated she was a resident off Wood End Court and expressed concern for increased traffic on Undergrace Lane. Ms. Cain also shared a dispute between her and Ms. Shockey regarding use of Undergrace Lane during inclement weather. In addition, Ms. Cain inquired as to whether Ms. Shockey is required to obtain a permit for the fencing Ms. Shockey put up to prevent people from accessing Undergrace Lane.

Mr. Stolipher stated that Ms. Cain's concerns would be best brought before the staff as this was a public hearing and not a question and answer workshop. Mr. Hayes agreed stating specifically that her inquiries regarding fencing should be brought before Building Permit staff.

Ms. Karla Miller spoke next. She stated she was a nearby resident concerned primarily about increased road traffic and future subdivisions.

Mr. Hayes motioned to close public comment. Mr. Stolipher seconded, which carried unanimously.

Mr. Stolipher stated that he had driven out to the property to see the proposed lot and the neighboring properties. He answered the public comments regarding increased traffic by stating the proposed subdivision was for a single family lot, not a development. He also noted that per house, the average traffic is 7-10 trips per day and that the current road is sufficient for such use. Any future division would require plat approval and road improvements.

Mr. Stolipher motioned to grant the waiver with the condition that any requests for further subdividing of the residue would require an additional waiver that would be considered on its own merits.

Mr. Hayes seconded the motion.

Mr. P. Taylor called the vote. Mr. Pellish stated that he was voting in favor, but wishes the Shockeyes would make amends with neighbors.

The motion carried unanimously.

Mr. P. Taylor requested staff re-draft the motion to reflect a favorable vote.

7. Potential Minor Zoning Ordinance Amendments (discussion and direction).

Ms. Brockman introduced the item by stating that the proposed minor amendments resulted through working on the comprehensive plan as well as a number of recent inquiries from customers. She requested that if the PC agreed with proposed amendments, that they schedule a public hearing to move forward in the process.

Mr. Barney stated that the amendments are intended to reduce unnecessary barriers and streamline the ordinance for clarity. He reviewed the following proposed amendments:

Site Plan Requirement (Section 4.10): This amendment would clarify that the site plan must be approved prior to initiation of development.

Restaurants and Convenience Stores in Shopping Centers (Section 5.8C): This amendment would clarify that the Compatibility Assessment Meeting requirement does not apply to a building located within a shopping center shown on an approved site plan for restaurants where the primary mode of food distribution is by pick-up counter or drive in window and convenience stores (food stores not in excess of 10,000 square feet gross floor area). The shopping center would stand on its own with the expectation that the owner would lease out space to businesses and that those businesses would not be expected to go through the Conditional Use Permit (CUP) process.

Breweries/Wineries/Distilleries (Section 8.5, various): The Zoning Ordinance currently permits “Farm Breweries and Wineries” in the rural district. Distilleries are currently excluded. We have received a number of inquiries regarding opening distilleries in Jefferson County. We would like to add the words “or distillery” and increase the square footage restrictions from 10,000 to 20,000 square feet. Feedback from Bloomery Distillery is such that 10,000 square feet isn’t enough.

Deck setbacks in certain townhome subdivisions (Section 9.5): We have received a number of variance requests for deck setbacks in townhome subdivisions, such as Windmill Crossing, that have small lots. This amendment would reduce the rear setback from 20 to 10 feet, if the adjacent property located to the rear of the subject lot is a dedicated easement or common area and is not a lot that includes a residence.

Receptions and events in rural areas (Section 10.5): Amending this section would eliminate the need for the Conditional Use Permit process, which is not the best fit for allowing special events such as weddings which typically do not require the construction of a permanent structure. The amendment would allow for weddings on a rural property as a special exception that would still need to go before the Board of Zoning Appeals, but would reduce to one public meeting rather than two, and also require a significantly shorter public notice period.

Secondary Dwelling Units for Agricultural Purposes (Section 10.5): To meet an increased number of requests to construct small, detached dwelling units for farmworkers or caretakers, the amendment would eliminate the need to go through the subdivision process and allow the request to process as a Special Exception that can be approved by the Board of Zoning Appeals.

Parking for seasonal or temporary uses (Section 11.1): This amendment would distinguish between conventional uses (such as retail store) and uses of a more rural or temporary use, such as a farmer’s market. The amendment would allow staff to administratively waive traditional parking requirements for seasonal or temporary uses, agricultural uses, events, or other types of uses that do not require parking on a regular basis.

Public notice for zoning map amendments (Section 12.2): Reducing the current notice period from 30 days to 20-28 days would allow for a zoning map amendment case to be scheduled on the next PC meeting following the applicant’s presentation of a map amendment petition. The current 30 days requirement makes it such that the applicant has to wait nearly 60 days for the next meeting. State Law does not require posting on the property or mailing notices to adjacent property owners; therefore, this amendment would still be within state law.

Mr. Hayes motioned to schedule a public hearing on the proposed amendments for the next meeting on June 11, 2013. Mr. Stolipher seconded the motion.

Mr. Pellish requested that staff make a presentation at the next PC Meeting scheduled for June 11, 2013 on what was originally recommended to the County Commission by the Planning Commission last year versus what is being proposed this year so that we may stay on track.

Mr. Stolipher asked for direction on whether we need a motion or a letter to the CC.

Ms. Brockman stated all that is needed is a consensus.

The motion to schedule a public hearing regarding the proposed amendments at the next PC meeting was unanimous.

Mr. Stolipher addressed the proposed amendment to Section 10.5 regarding secondary dwelling units recommending that staff reference Clarke County's plan which includes an amendment allowing one to build a dwelling unit within a restricted square footage so it doesn't impact their dwelling unit rights.

8. Update on the 2014 Comprehensive Plan:

Ms. Brockman spoke on this item. She stated that the Steering Committee is meeting twice a month during May and June to prepare for the upcoming joint meeting with the County Commission on July 18th, 2013, where the intent is to have a final draft of the existing conditions and goals and objectives. The PC is welcome to attend this meeting.

Ms. Brockman stated that the next scheduled public input meetings will be July 27th, 2013 from 9:30am until noon in the gym at Sam Michael's Park and on Tuesday, July 30th, 2013 from 7:00pm until 9:00pm at the War Memorial Building/Community Club Building in Shepherdstown. She stated that the purpose of these meetings will be to report back from the meetings held during February and March (a total of four [4]) and to present drafted Goals and Objectives created in response to citizens comments received at the meetings and through written comment. She stated that there would also be an exercise related to the future land use map. She noted that the previous Comprehensive Plans in Jefferson County have not included land use maps and that staff are working to create a future land use map to address two goals: first, where do we think growth should be broadly; and second, what type of growth do we want to see in which parts of the county. She reported that staff planned to set up an information booth at the county fair to gather public input by engaging people in a brief survey or activity relating to the future land use map. Additionally, brochures will be distributed to people who are interested but not able to spend much time at the booth directing them to the website for input at a later time.

9. Reports from Legal Counsel and legal advice to the Planning Commission:

Mr. Groh provided updates on the following cases:

- a. **Cedar Meadows:** No update, still awaiting trial.
- b. **Far Away Farms:** Mr. Groh reported that a telephonic status hearing is scheduled for Wednesday, May 15th, 2013 during which a hearing date will be set by the Judge. He stated that a hearing will probably be in August of this year.

10. None

11. Director's report:

Ms. Brockman provided an update on the Stormwater Regulation draft reporting that a consultant is working with the engineering department to finalize a draft before providing presentation. She stated that once the draft is complete, the consultant will provide an overview to the Planning Commission at the next available PC meeting as a workshop and staff will schedule the public hearing for the following PC meeting date to meet the thirty (30) day notification requirement.

Mr. Pellish requested that consultant include in their presentation comments on the recently passed Maryland Rain Tax.

Ms. Brockman presented Department of Planning and Zoning goals for fiscal year 2013-2014. She stated that this year the County Commission requested that each Department identify their top 3 – 5 goals for the year with their budget, instead of a formal work plan. She presented these department goals which focused primarily on customer service and the Comprehensive Plan, but could develop a more formal work plan if the Planning Commission desired.

Ms. Brockman provided a quarterly report in a handout distributed to all members. She stated that the quarterly report is based on what the previous Planning Commission requested which was an update on the types of projects staff were working on, including daily tasks and walk-ins. She stated that the quarterly report is submitted to the County Commission on behalf of the PC, the Board of Zoning Appeals and the Departments of Planning and Zoning and asked what additional information would be of value to include in the report. Mr. Hayes stated that he would like to only see items that are PC related including pending projects. Ms. Brockman stated that the report addresses pending projects in the section called Proposed Projects Underway.

Ms. Brockman reminded PC members that the Ethics Training meeting is rescheduled for Tuesday, June 25th, 2013 at 7:00pm. She stated that the meeting topic is Ethics and Fraud Prevention and will be presented by the West Virginia Ethics Commission and the State Auditor's Office. She stated that the meeting is intended for boards and commissioners and that anyone planning to attend could let staff or County Commission members know.

12. Monthly Development Activity Report:

Ms. Brockman stated that this report is provided at the request of previous Planning Commission. Mr. Hayes stated that he was not interested in receiving this report anymore and requested that we exclude from future packets. He stated that the quarterly report is sufficient. Mr. Pellish agreed by stating he would like updates on major projects.

13. Liaison Reports:

- County Commission Meeting: Mr. Pellish stated that the topic addressing Fire and EMS fees scheduled for the upcoming CC meeting is going to be a hot topic and that he will report back with an update.

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- Health Department Meeting: Ms. Brockman stated that the Health Department is participating in the Content Management System RFP and their participation will help provide complete information relating to sites such as the status of well and septic at a particular location.
- Parks and Recreation Meeting: Mr. G. Taylor stated that he did not have any updates. He reported that the current Hite Road project was coming along. Ms. Brockman reported that they were working on a grant application for an Amphitheatre at Sam Michael's Park and that if approved, Parks and Recreation would present before the Planning Commission.
- Public Service District Meeting: No Liaison. Ms. Brockman stated that PSD meetings are held the first Monday of every month.
- Jefferson County Development Authority Meeting: Mr. Stolipher stated he had no updates. He stated that the JCDA was happy about the proposed waiver to reduce commercial impact fees and that a hearing would be held on May 30th, 2013. He reported that the JCDA is actively working to hire a new Program Manager (I believe Stolipher stated director, but that's not correct) to fill the vacant position.
- Water Advisory Committee Meeting: No liaison. Ms. Brockman stated that they meet the 3rd Monday of every month at 3:00pm.

Mr. Hayes requested that the Planning Commission Exchange agenda item be put back on the agenda.

14. **President's Report:** None.

15. **Actionable Correspondence:** None.

16. **Non-Actionable Correspondence:**

Ms. Brockman stated that Mr. Fred Blackmer had requested to speak at a previous Planning Commission meeting but that after seeking advice from Legal Counsel, it was determined that Mr. Blackmer could not be on the PC agenda unless he was presenting something the PC could act upon. Ms. Brockman stated that it was suggested to Mr. Blacker that he submit written comments and work with staff to maintain communication with the PC. Mr. Groh stated that a meeting was held with Mr. Blackmer, the County Administrator, and staff that hopefully addressed Mr. Blackmer's concerns. Ms. Brockman stated that Mr. Blackmer went to the Board of Zoning Appeals to relocate the Morgan's Grove Farmers Market for this summer so they could move forward with construction of current project.

17. **Signing of approved Motions from previous Planning Commission meetings:** None.

Mr. Hayes motioned to adjourn the meeting at 8:50pm. Mr. Stolipher seconded the motion, which carried unanimously.