

MINUTES  
JEFFERSON COUNTY PLANNING COMMISSION  
FEBRUARY 14, 2012

The Jefferson County Planning Commission met on Tuesday, February 14, 2012 with the following Commission members present: Paul Taylor, President; Kelly Baty, Ed Burns, Gene Taylor, Arnie Dailey 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, Assistant Prosecuting Attorney; and Amy Puetz, Planning Clerk.

Mr. Daniel Hayes, Mr. Eric Smith and Ms. Morgan Etters were absent with notification.

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

**1. Approval of the minutes for the January 10, 2012 meeting.**

Mr. Burns moved to approve the minutes of the January 10, 2012 Planning Commission Meeting. Mr. Pellish seconded the motion which carried 4 for and 2 abstentions (Mr. Dailey and Mr. G. Taylor).

**2. Citizens Communication.**

Mr. Clay Lashley, of Shepherdstown, questioned why the issue of recreational uses was not being discussed at this meeting. Mr. P. Taylor explained that the discussion of new zoning categories for the current meeting would not include recreational uses as that topic would be addressed separately and was scheduled to be discussed at the March 13, 2012 Planning Commission meeting. Mr. Ashley asked if the new zoning categories would affect recreational uses in the county. Ms. Brockman affirmed that the zoning categories were not created with the intention of positively or negatively affecting recreational uses.

**3. Request for postponement. None.**

**4. Request by THZ Enterprises, LLC for a waiver from the Subdivision Regulations Section 8.2.a to allow for a 20' road width for Canal Way instead of the required 24'. This property is located off of Route 45 east of Potomac Farms Drive and is designated as Tax District: Shepherdstown, Map: 8, Parcel: 15.**

Mr. Rivard presented the location and gave a staff report on behalf of the Engineering Department. He reported that the County Engineer recommends denial since the Maddex Farm Home Owner's Association has not acknowledged agreement to this waiver. He stated however, that the Engineering Department would be inclined to recommend approval of the waiver if the Maddex Farm Home Owner's Association (HOA) were to sign an agreement supporting the applicant.

Mr. John Thomas, with THZ Enterprises, LLC, stated that only a 200' section of road was mistakenly built at a 20' road width instead of the required 24' width. He stated that he had

spoken with the HOA and that they verbally agreed although they did not express that in writing. He reported that the HOA did send out a letter to the affected home owners.

Mr. P. Taylor opened the public hearing. There was no public comment. Mr. P. Taylor closed the public hearing.

Mr. Pellish expressed understanding of the situation although he would only be comfortable approving the variance with a written agreement signed by the HOA.

Mr. Burns moved to table this item to the March 13, 2012 Planning Commission meeting with a certified letter to go to the Management Company and to the President of the Home Owners Association informing them that, if no objection is posed by them by or at the next Planning Commission meeting, the variance will be approved. Mr. Pellish seconded the motion and offered a friendly amendment to obtain a letter from the HOA in support of granting the variance and that without that letter the variance would be denied. Mr. Dailey seconded the friendly amendment which carried unanimously. Ms. Brockman clarified the motion with the approved friendly amendment to table this item to the March 13, 2012 Planning Commission meeting with a certified letter going to the Management Company and to the President of the HOA stating that the Planning Commission requires a written document of support of the variance. The main motion modified by the friendly amendment also carried unanimously.

**5. Public Input Workshop regarding Proposed Commercial Zoning Categories, an amendment to the Jefferson County Zoning Ordinance.**

Ms. Brockman explained that the existing zoning categories were too broad and that amending the Zoning Ordinance to allow several, more focused categories would enable the Planning Commission to allow economic development in designated areas while maintaining stricter level of growth in other areas.

Mr. Barney gave a presentation on each of the proposed categories. He reviewed the proposed site development standards and the principle permitted uses chart. He stated that the next step would be to refine the proposed amendment and to develop language and definitions for the Zoning Ordinance.

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

Mr. J. Michael Cassell, representing the Shorekeepers of Jefferson County, WV, discussed the Pack Horse Ford Study area which is in the rural district. He stated that the people he represented all had a direct interest in the purpose of the rural district as they all live in low density areas and that they would be impacted by the changes of zoning as they were being proposed. He commented that the most concerning to his clients was the proposed Rural Commercial district. He stated that commercial uses did not belong in rural communities and that the already existing village districts had been created to accommodate commercial uses close to rural districts. Mr. Cassell also raised concern about the proposed locations for any of the zonings. He stated that he felt that creating a Floating Zone allowed the Conditional

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Use Permit process to be bypassed. He expressed concern that public notification of proposed projects would diminish and that the LESA scoring system would no longer have any impact on determining whether or not a project was in a suitable location. He requested that the Planning Commission make careful determination on the Floating Zone as it does not provide an adequate balance between the applicant and the surrounding property owners. Mr. Cassell submitted over 100 signed letters of opposition to the proposed zoning categories.

Mr. Clay Lashley, of Shepherdstown, stated that Clarke County, Virginia was one of the most aesthetically pleasing places on the east coast with only six zoning districts. He then commented that he felt that Loudon County, Virginia was more cluttered with more districts. He suggested that Jefferson County follow the example of Clarke County. He stated that the historic beauty of the county should not be destroyed due to the influence of monetary potential.

Mr. Robert Smith, a shoreline property owner, raised concern of the lack of criteria for qualifying for the proposed rural commercial zone. He suggested that standards such as proximity of the proposed use to existing residential neighborhoods, access in and out of those neighborhoods, and potential for emergency vehicles to be blocked from access be included in the zoning categories proposal. He requested that a map depicting primary and secondary roads be made available to the public and a description of the requirements that would be necessary to change a road's designation.

Ms. Lisa Lafferty, River Road resident and part of the Shorekeepers, stated that she has made complaints about a current business located next to her home and feels that she is not being heard. She stated that her previous complaints had not been filed in the department although she had copies of them. Ms. Brockman requested that she send copies to the staff.

Brian Goodman, Potomac Acres resident, questioned the enforcement of improvement to a property. He raised concern that a business may make capital improvements to a property without proper authority then requests a grandfathered use and reported that an example would be the zip line and campgrounds that were in use in Bakerton. He questioned how infrastructure would play a role in determining if a use was appropriate for a location. He asked how the proposed zoning categories would be funded as he felt there should not be an onerous burden on property owners.

Ms. Christy Comshire, resident of Washington County, MD, discussed the weekend cabin that her family owns in Jefferson County along the river. She commented that she was upset that there are citizens taking advantage of the rural community for business purposes.

Ms. Marilee Cunningham, resident of Potomac Terrace, agreed with all the previous comments and discussed the importance of the river to the environment and to the county. She feels that increasing the amount of noise and people by the river will be a detriment.

Mr. Bill Elliott, resident of Bakerton Road, raised concern of the effect the proposed zoning categories would have on the Chesapeake Bay.

Mr. Ed Eims, resident of Bakerton Road, stated that current infrastructure would not be able to accommodate the types of proposed zoning.

Mr. Doug Stroup, of Berkeley County, cautioned against rural commercial zoning and feels that allowing that would trash the county.

Ms. Alexis Vecadis, Jefferson County resident, stated that she wanted her children to be able to enjoy the river without it being commercialized. She asked that the Planning Commission consider that the river is watershed to the Chesapeake Bay.

Ms. Kathy Knight, President of Carriage Park I Homeowner's Association, commented that the US 340 East Corridor Gateway Study has exposed the need for additional zoning categories. She stated that her neighborhood would benefit from additional, more specific categories.

Mr. Tim Offutt, resident of Engle Switch Road, complained of the amount of trash on Bakerton Road since there has been increased activity in that area. He also commented that a driveway that had been recently developed on Best Road could not be for a residential driveway because it is 30 feet wide.

Mr. Baty explained that the Planning Commission requested that staff propose possible additional zoning categories after recently holding public hearings on rezoning requests that met public resistance due to the broad range of permitted uses in the current zoning categories. While some of these requests were approved by the County Commission, there continued to be concern regarding the wide variety of potential uses that each of the existing categories permits. Narrower non-residential zoning categories may permit appropriate uses in appropriate locations with less negative impact on neighboring properties.

Mr. P. Taylor closed the public workshop. Mr. P. Taylor called for a 5 minute break at 8:32 PM. The meeting resumed at 8:42 PM.

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

Mr. Groh discussed the order dated January 12, 2012 regarding Far Away Farms that was provided to the Planning Commissioners in the agenda packet.

Mr. Groh explained that he would have a hearing on February 22, 2012 regarding Cedar Meadows Airpark.

Mr. Groh stated he would be changing the agenda to list any outstanding discussion item to allow for disclosure so that he would be permitted to give legal advice on the given topics.

**7. Director's Report.**

Ms. Brockman reported that there would be a joint meeting between the Planning Commission and the County Commission on March 8, 2012 at 7 PM regarding the US 340 East Gateway Plan. She reviewed the recent actions of the County Commission including approval of the Gibson rezoning request, the retraction of the Hott rezoning request, and approval of the amendments to Articles 20 and 26 of the Subdivision Regulations.

Ms. Brockman presented the Fiscal Year 2013 Work Plan. She reviewed the goals for 2013 including beginning work on the 2014 Comprehensive Plan. Discussion ensued regarding establishing a citizen's committee for public outreach regarding the 2014 Comprehensive Plan. Ms. Brockman discussed the plans that staff has to approach drafting goals for the Comprehensive Plan.

Ms. Brockman stated that the staff had been working on getting an association of West Virginia planners together to collaborate ideas.

Mr. Pellish moved to forward the Fiscal Year 2013 Work Plan to the County Commission as written. Mr. G. Taylor seconded the motion which carried unanimously.

#### **8. County Commission Liaison Report.**

Mr. Pellish commented that the Planning Department should go to the County Commission for approval and direction on the 2013 Work Plan.

Mr. Pellish stated there was a lot of great input heard tonight during the zoning categories workshop however, he felt that some of the comments would have been more appropriate for the recreational use workshop that would be held in March.

He reported that a new Executive Director was hired for the Development Authority.

#### **9. Planning Commission Exchange.**

- **Report from the Health Department Meeting Liaison.**

Mr. Burns reported that there no discussions at the Health Department meeting that pertained to the Planning Commission.

- **Report from the Public Service District Meeting Liaison.**

Ms. Brockman stated that she was asked to speak at the March meeting for the Public Service District to provide an update on the US 340 East Gateway Plan.

- **Report from the Parks and Recreation Meeting Liaison.**

Mr. G. Taylor reported that Ms. Brockman would be joining the facilities committee for Parks and Recreation. Ms. Brockman stated that Parks and Recreations have asked staff to research common area parcels in the county that they may be able to lease or use for activities.

- **Report from the Jefferson County Development Authority Meeting Liaison.**

Mr. Pellish commented that there have been a couple of potential business items that have been discussed.

- **Report from the Water Advisory Committee Meeting Liaison.**

Mr. Baty stated that the Water Advisory Committee had received new grants for some erosion and sediment control work to be done on the mountain at the corner of Mission Road and Route 9 which had been noted as an area where hydroplaning is common. He also reported that two of the committee members had been reappointed and that one more position was open for the committee. He commented that having the County Engineering Department maintain watershed protection regulations was discussed.

10. **President's Report.** None.

11. **Actionable Correspondence.** None.

12. **Non-Actionable Correspondence.**

Ms. Brockman presented a Planning Commission Meetings Deadline brochure that will assist the public in knowing the last day to submit for a particular agenda.

There was a short discussion regarding finding a larger space to meet in March due to the expected turnout for the Recreational Uses Workshop.

Mr. G. Taylor moved to adjourn the meeting at 9:34 PM. Mr. Pellish 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.