

MINUTES
JEFFERSON COUNTY PLANNING COMMISSION
MARCH 13, 2012

The Jefferson County Planning Commission met on Tuesday, March 13, 2012 with the following Commission members present: Paul Taylor, President; Kelly Baty, Ed Burns, Morgan Etters, 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 was absent with notification.
Mr. Eric Smith was absent without notification.

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

Mr. P. Taylor recognized Mr. Arnie Dailey for his 15 years of service on the Planning Commission and presented Mr. Dailey with a plaque. Mr. P. Taylor also recognized Mr. Burns for his assistance in organizing the video recording and sound for this night's meeting.

1. Approval of the minutes for the February 14, 2012 meeting.

Mr. Baty stated that page 4, under Item #5, where he is quoted, did not accurately reflect his intent. 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. Burns moved to approved the minutes of the February 14, 2012 Planning Commission meeting as amended by Mr. Baty. Mr. G. Taylor seconded the motion which carried 6 for and 1 abstention (Ms. Etters).

2. Citizens Communication. None.

3. Request for postponement. None.

4. Tabled from the 02-14-2012 meeting: 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 reviewed the events of the last meeting. He reminded the Planning Commission that it was determined at the February 14, 2012 meeting that a certified letter was to be mailed to the Homeowner's Association (HOA) and to the Property Management Company

requesting their agreement with the waiver request. He reported that a letter of support from the Homeowner's Association had been received by the department.

Mr. John Thomas, with THZ Enterprises, LLC, was present for questions.

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

Mr. Burns moved to approve the waiver due to the letter of support received from the HOA. Mr. Pellish seconded the motion which carried unanimously.

- 5. Presentation of a petition by Gene Capriotti for a zoning map amendment to the Planning Commission for the purpose of scheduling a public hearing within 60 days. This property is currently zoned Residential Growth and the applicant is requesting Residential/Light Industrial/Commercial zoning. This property is located on the south side of Route 340 (William L. Wilson Freeway) and on the east side of Route 27/2 (Allstadt's Hill Road). District: Harpers Ferry, Map: 9, Parcel: 58.**

Ms. Brockman, on behalf of the applicant, requested that the Planning Commission schedule a public hearing to discuss the rezoning of this property. She stated that, due to the advertising requirements, the Planning Commission would need to have a special called meeting on April 24, 2012. Mr. P. Taylor called a special meeting for April 24, 2012.

Mr. Baty moved to hold the public hearing on April 24, 2012. Mr. Burns seconded the motion which carried unanimously.

- 6. Request by Judy Hockman and Brian Bircher (Black Dog Coffee) for a waiver from the Subdivision Regulations Appendix B, Section 2.5 requiring off-street parking to be paved. This property is located at the corner of Route 9 and Wiltshire Road and is designated as Tax District: Charles Town, Map: 1, Parcel: 14.**

Mr. Rivard explained the waiver request and the location of the property. He read from his staff report and recommended denial since the intensity of the operation may be significant and paving the parking lot would not be unreasonable and would provide a better quality project. He reported that, whether or not the waiver is granted, the applicant would be required to pave at least one parking space in accordance with the Americans with Disabilities Act. Mr. Rivard asked that, if the Planning Commission were inclined to grant the waiver, the approval be limited to the current user of the property and not for future uses.

Mr. Saunders read from his staff report and recommended approval of the waiver since the property is of a rural nature and the site has existed for over 20 years. He further noted that his recommendation would be contingent upon the applicant demonstrating that 9 inches of stone exists or would be added to achieve 9 inches of thickness.

Ms. Brockman reported that numerous e-mails of support were received by the department prior to the meeting.

Ms. Judy Hockman, owner of Twin Ridge Orchards and the Bardane Market, provided staff with 20 additional letters of support. She explained the history of the property detailing past 20 years of operations and the stalled negotiations with the Jefferson County Development Authority in 2009/2010. She described the proposed use by Black Dog Coffee. Ms. Hockman stated that the interruption of business at the site was not self-imposed and she feels that the grandfathering of the property should not have been lost.

Mr. Brian Bircher, owner of Black Dog Coffee, explained the history of his business and the need for expansion to this property.

Ms. Hockman added that the condition to require 9 inches of gravel is unreasonable. She stated that she feels that the parking lot as it exists is well constructed and compacted. She also requested that the waiver be granted for future uses and not just confined to this user.

Mr. Saunders clarified that the condition of 9 inches of gravel included what already exists on the parking lot.

Mr. P. Taylor opened the public hearing.

Nance Briscoe, county resident and Bardane Market patron, spoke in support of the waiver.

Mr. John Maxey, resident of Harpers Ferry, also spoke in support of this request stating that he believes that a waiver should not be required. He stated that the use had not been abandoned since negotiations with the Jefferson County Development Authority were pending. He commented that the applicant should not be penalized for time lost due to those negotiations.

Mr. Dave Hardy, area resident, also spoke in support of the waiver and stated that the parking lot seems fine.

Mr. P. Taylor closed the public hearing.

Mr. Burns moved to approve the waiver with the exception that at least one handicapped parking space be provided. Mr. Pellish seconded the motion which carried unanimously.

7. Public Workshop Regarding Recreational Uses/Potential Zoning Amendments.

Mr. Barney explained the purpose of the proposed amendments and stated that staff is not recommending any new zoning districts, zoning overlays, or the rezoning of any property with these amendments. He commented that the staff has heard concerns of river access issues in relation to impact on residential areas and that some land uses would be more appropriate in a public park area. He also reported that staff heard support for tourism, trails and bike paths, and health improving activities.

Mr. Barney described each proposed category in detail. Those categories were: Rural Recreational Uses, Seasonal Uses, Agricultural Tourism, Hunting, Shooting and Fishing

Clubs; Shooting Ranges, and Site Standards for Campgrounds. Mr. Barney stated that the goal would be for staff to draft ordinance language and to hold a public hearing in May for recommendation to the County Commission.

Mr. P. Taylor opened the public hearing requesting that comments be kept brief and that there be no personal attacks on individual business owners or individual businesses.

Mr. J. Michael Cassell, representing the Shorekeepers of Jefferson County, asked that the Planning Commission and Planning Staff to recognize the need for the Conditional Use Permit process to continue. He stated that he feels that the recreational uses being discussed have the potential for a significant site impact. He spoke in support of the LESA scoring system and stated that a guideline within LESA should be created for these uses. He commented that the soils and amenities assessment should be kept as a requirement. He requested that staff meet with him and the Shorekeepers to discuss specific site standards for campgrounds and impact on neighborhoods. Mr. Cassell again expressed the importance of the LESA site standards. He commented that the Pack Horse Ford Study, which is detailed in the Comprehensive Plan, had not been done and that it would have relevant importance to these amendments. He asked that the amendments not allow public input to be curtailed.

Mr. Ted Schiltz, Potomac Terrace Homeowner's Association, stated that staff should be working on the Comprehensive Plan instead of these amendments. He commented that all standards are written in the Zoning Ordinance and that we should follow it as written.

Mr. Brian Goodman, Potomac Terrace resident, raised concern that sufficient infrastructure and funding did not exist. He discussed traffic impacts of these amendments. He stated that definitions need to be made very clear.

Mr. Dale Manuel, speaking as a citizen of Jefferson County, remarked that regulations on shooting ranges need to be strict as there were current issues with regulating and monitoring shooting ranges in the County.

Mr. Clay Lashly, local resident, voiced his support of local businesses however he is not in favor of the proposed amendments as they are written. He stated the following as issues to be addressed regarding the proposed amendments:

- The need for responsible commercial growth. He stated that commercial growth should be contained to the existing routes of US 340, Route 9, and Route 51. He commented that there are existing Industrial Parks that are looking for tenants.
- Taxes for the County. He stated that while he understands the need for revenue in the County, he believes that stronger standards to slow the housing development, so as to not overwhelm the schools and emergency services, would accomplish revenue goals.
- Fairness to citizens and property values. He gave examples of possible recreational uses that may bring property values down and disturb the residents' current way of life.
- The value of the county history and heritage. Mr. Lashly stated that he would like to maintain the rural character of the county.

- Jobs. He stated that the unemployment rate in Jefferson County was 5.9%. He commented that small businesses only employ one or two people besides the employer. He asked that there be a compromise by protecting the Potomac River and using only the Shenandoah for commercial ventures.
- Existing avenues for zoning changes under the current regulations. He commented that the current regulations should be used.
- The officials. He asked that the citizens of the county observe which officials allow these changes to occur and to refrain from voting for them in the next election.

Mr. John Hines, Shepherdstown resident, commented that there are an excess of commercial venues existing in the county. He requested that none of the proposed commercial uses be placed within view of his home. He stated that he feels that commercial river access is being abused.

Ms. Helene Goldberg, Harpers Ferry property owner, raised concern of parking issues and restroom facilities for the categories noted in the proposed amendments such as campgrounds.

Mr. Dane Konop, resident of Potomac View Lane, commented that in 2008, the County Commission approved a new Zoning Ordinance that did not include the LESA scoring system which was soundly rejected by the voters. He questioned why the amendments were being proposed when the voters have already clearly expressed their views on this topic.

Ms. Bonnie Dorman, Harpers Ferry resident, requested that the Planning Commission explore the criminal activity statistics associated with campsites and similar activities.

Mr. Robert Smith, river property owner, raised concern that there will be campers that will have long stays and take part in activities such as gambling and drinking which could lead to littering and vandalism issues. He also stated that the current road systems and conditions in the county would not be able to support the related Recreation Vehicle traffic.

Ms. Christa Stidy raised concern that the infrastructure of the roads cannot handle the increased traffic. She stated that roads were currently not being fixed and paved properly and that the problems needed to be fixed and not created.

Mr. P. Taylor called for a 10 minute break at 8:37 PM. Mr. P. Taylor called the meeting back to order at 8:50 PM.

Mr. P. Taylor stated that the Planning Commission understands that the infrastructure of the roads is a concern and that the Department of Highways would be contacted.

Ms. Monae Lienhard, Harpers Ferry resident, spoke in support of the amendments.

Ms. Lenore Stroop, local resident, discussed her apprehension that recreational uses will be placed too close to neighborhoods and what safety issues that would cause for the children. She stated that she supports commercial growth providing that residents are protected. She

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commented that business should not be allowed in neighborhoods since families have no control over who may enter their neighborhoods when businesses exist within them.

Mr. Douglas Stroop, local property owner, stated that he did not believe business owners will benefit from these amendments. He stated that he was concerned that there is not enough local interest for these amendments to be discussed.

Mr. Rick Wiest, Harpers Ferry resident, reiterated concerns mentioned earlier regarding river access, traffic and overcrowding of people. He stated that he sees no benefit in these amendments.

Mr. Lee Baihly, founder of River and Trail Outfitters, supported recreational river use and reported that many jobs are created by these businesses especially for students and teachers as summer jobs. He commented that the people who drive the buses for these businesses in the summer are the same people who are driving the area children during the school season.

Ms. Bonnie Dorman, Bakerton resident, spoke regarding the existing traffic at the tunnel in Bakerton. She raised concern that the increase in traffic will have a negative impact on wildlife.

Mr. Andrew Nessler, Bakerton resident, stated that he was concerned of the increase in traffic and the potential for more accidents along the river.

Mr. Scott Mikles, local mechanic/bus driver, spoke in support of river uses and stated that he feels that it's better for children to take part in river recreation than to spend time in front of the television.

Mr. Robert Smith stated that the increased traffic that will actually be on the river could be an issue since the infrastructure of a natural resource cannot be expanded. He also raised concern of the type of commercial boating that will be allowed and whether the wakes will further damage residential properties.

Mr. Clay Lashly suggested to use the Shenandoah River for recreational use and to preserve the Potomac River. He stated that he believed the uses that are already in use should be maintained properly and that growth should be restricted.

Mr. Matt Knott, owner of River Riders, responded to some of the comments made at this meeting. He stated that the river cannot be accessed from an industrial park so they would not be able to move the business there. He commented that he gets no subsidized funding to operate his business. Mr. Knott stated that River Riders owns 100 acres of land and that 90 acres of that is preserved and managed timber. He reported that only 3 acres of land have been cleared since 1995 and that his business has had very little impact on the environment. He stated that his employees perform trash pick-ups along the road and along the river. He commented that he keeps swift water rescue teachers, emergency service technicians, and CPR instructors on staff. He stated the campground is kept and secured by a caretaker. He stated that the zip line cannot be seen by residences in the county except for one. He

commented that buses do not increase the traffic and in fact are used to lessen traffic so that individual cars are not traveling to access points. He spoke in support of the amendments and stated that the LESA scoring system doesn't work in these uses due to the soils assessment. Mr. Knott questioned if conditions placed on an applicant will be conditions placed by the Planning Commission or by the public.

Mr. Scott Beveridge stated that he is concerned with rafting on the Potomac River. He also commented that bus traffic is a concern.

Ms. Helene Goldberg stated that she enjoys the river recreation although she is concerned with the increase in population and noise of the businesses.

Mr. Brian Goodman thanked River and Trail Outfitters for being good neighbors. He stated that he feels impacted by the increased traffic on Bakerton Road which he believes is due to the River Riders business.

Mr. Dane Konop stated that the voters spoke clearly in 2009 to keep the Zoning Ordinance as it was written and he feels that these amendments are a waste of public's time. He addressed River Riders specifically stating that he does not feel that business should benefit at the expense of its neighbors.

Mr. Burns moved to close the public hearing. There was no second and the motion failed. Mr. Baty moved to continue the public hearing for 15 additional minutes. Mr. G. Taylor seconded the motion which carried 6 for and 1 against (Mr. Burns).

Mr. Adam Brastow, resident of Knott Road, stated that the boat ramp in that area can only be accessed by crossing privately owned property.

Ms. Marilee Cunningham, resident of Potomac Terrace, suggested that a comprehensive site review, including a review of river use, is necessary. She stated she would like there to be a study done that would analyze the facts before jumping into a public hearing full of opinions only. She questioned if there would be a committee that would review all aspects of impact of these amendments.

Ms. Janet Nesselrodt, employee of River Riders and school bus driver designated to Bakerton Road, spoke in support of River Riders stating that the pay is higher for her with River Riders than with her employment with the schools. She stated that River Riders is a source of summer employment for many college-aged students, teachers and bus drivers. She boasted that River Riders takes great efforts to protect and maintain the environment.

Mr. Steven Arnold, resides near the river, commented that he feels an environmental study and an impact statement are a necessity. He suggested that a lot of thought should be placed on the future impact of the river.

Mr. Everett Rupert stated that growth is not always pleasurable or desirable however, growth cannot be stopped. He commented that he is supportive of the amendments and that he sees the potential to cover everyone's concerns while not everyone will be happy.

Mr. P. Taylor closed the public hearing.

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

Active Litigation:

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

Mr. Groh stated that a discussion would need to be held in executive session which could not be facilitated in the building where the meeting was being held. He stated that there was nothing that was time sensitive enough that it couldn't wait until the April 10, 2012 meeting.

9. Director's Report.

Ms. Brockman suggested that the staff recommendation regarding the next steps related to the Commercial Zoning Category Amendments are to table discussion of the rural commercial zoning while moving forward with the other proposed amendments at a public hearing to be held April 10, 2012.

Ms. Brockman reported that the US 340 Gateway Plan had been sent to the US 340 Technical Advisory Committee with a request to have feedback to the department by April 4, 2012. She requested that the Planning Commission also review the document and be prepared to hold a discussion of the plan at the April 10, 2012 Planning Commission meeting prior to scheduling a public hearing.

Ms. Brockman stated that there have been a number of requests presented to the department regarding properties in Millville, which is the only village type area in the county that is not zoned Village. She requested that the Planning Commission consider the options regarding potential rezoning of property in Millville from Industrial/Commercial to Village or to one of the proposed new commercial categories if it is approved and applicable. She reported that this topic would be placed on a future agenda.

Ms. Brockman explained that all Planning Commission members are required to have 2 hours of training per year by order of the County Commission. She stated that there would be training for new Planning Commission members which would be facilitated by staff. Additional training will be placed on the agenda when time permits. She also requested input as to whether Planning Commission members would be willing to complete some online training. She stated that staff would be able to assist each member in joining an APA website to take part in the education and webinars provided on that site. This item will also be placed on a future agenda for further discussion.

Ms. Brockman reviewed upcoming agenda items.

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

11. **Planning Commission Exchange.**

- **Report from the Health Department Meeting Liaison.**
Mr. Burns reported that Public Service Commission may be lifting the moratorium regarding water connections for properties located on the mountain.
- **Report from the Public Service District Meeting Liaison.**
Ms. Brockman reported that staff would be speaking at the next Public Service District meeting regarding the US 340 Gateway Plan.
- **Report from the Parks and Recreation Meeting Liaison.**
Mr. Brockman reported that the Facilities Committee met and discussed the options of acquiring property with little funding to use for recreational uses. She stated that Hite Road Park is the Parks and Recreation Committee's top priority.
- **Report from the Jefferson County Development Authority Meeting Liaison.**
Mr. Burns reported that he had met with the new Head of the Development Authority and predicted good relations.
- **Report from the Water Advisory Committee Meeting Liaison.** None.

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

13. **Actionable Correspondence.** None.

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

Mr. Burns moved to adjourn the meeting at 9:57 PM. Mr. G. 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 Amy Puetz, Planning Clerk.