

MINUTES  
JEFFERSON COUNTY PLANNING COMMISSION  
AUGUST 14, 2012

The Jefferson County Planning Commission met on Tuesday, August 14, 2012 with the following Commission members present: Kelly Baty, Gene Taylor, Steve Stolipher, Daniel Hayes 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; Steve Groh, Prosecuting Attorney; and Amy Puetz, Planning Clerk.

Mr. P. Taylor, Ms. Morgan Eppers, Mr. Eric Smith were absent with notification.

Mr. Hayes called the meeting to order at 7:02 PM and asked for nominations for an acting chairman for the meeting. Mr. Pellish moved that Mr. Hayes serve as acting President for this meeting. Mr. G. Taylor seconded the motion which carried unanimously.

**1. Acknowledgement of Mr. Ed Burns' service to the Planning Commission.**

Ms. Brockman acknowledged the service of Mr. Ed Burns to the Planning Commission and the Jefferson County Community prior to his passing.

**2. Approval of the minutes for the July 10, 2012 meeting.**

Mr. Baty noted that the date at the top of page 1 needed to be changed from *June 12, 2012* to *July 10, 2012*.

Mr. Pellish moved to approve the minutes of the July 10, 2012 Planning Commission meeting as amended. Mr. Stolipher seconded the motion which carried unanimously.

**3. Citizens Communication.** None.

**4. Request for postponement.** None.

**5. Concept Plan Review and Public Workshop for Sheetz (PC File #S12-02). This property is located at 51 Flowing Springs Road, Charles Town. This project consists of a 1,941 square foot expansion that will contain updated restrooms, new coolers, and a reconfigured coffee area. The property is located in Tax District: Charles Town; Tax Map: 8; Tax Parcel: 11.5.**

Mr. Stolipher recused himself due to a conflict of interest with the parties involved. Mr. Stolipher left the room.

Mr. Rivard reviewed the location of the property.

Mr. Rick Turner, of Diamond Z Engineering, Inc., gave a presentation regarding the proposed activity on the property. He stated that there would be possible issues in providing sidewalks that he would be willing to discuss with the Planning Commission. Although a

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waiver of sidewalks would be a requirement, it was not being requested as a part of the Concept Plan review.

Mr. Rivard read from his staff report and recommended approval. He reported that a sidewalk would be required as a part of the administrative site plan review unless the applicant applied for a waiver of sidewalks.

Mr. Saunders gave a brief report and requested that the one-way entrance on Flowing Springs road be removed or closed off.

Mr. Jason Gerhardt, of William H. Gordon, Associates, stated that the Department of Highways suggested signage and pavement markings to clarify the one-way entrance. He reported that the applicant had complied with those suggestions.

Mr. Saunders stated that the bigger concern was the traffic making left hand turns into the one-way entrance due to the stacked traffic pattern.

Mr. Hayes opened the public hearing.

Mr. William McCloud, Shepherdstown resident, supports the expansion and requested that the streetscape of Charles Town be extended to the property. He asked that the lamp posts and sidewalks be integrated into the Concept Plan.

Mr. Pellish moved to close the public hearing. Mr. G. Taylor seconded the motion which carried unanimously.

Mr. Rivard explained that the property in discussion is in Jefferson County and that the streetscape design is under the purview of the City of Charles Town.

Mr. Pellish asked if the one-way entrance was necessary. Mr. Turner explained that the angled entrance directed traffic into the first canopy instead of through exiting traffic allowing for safer entrance onto the property. He suggested that the one-way entrance could be more directional to prevent traffic from entering on a left-hand turn.

Mr. Pellish questioned why the applicant would be required to install sidewalks since the business has been open since 1997. Mr. Rivard explained that the size of the expansion triggers an upgrade to the site and since the regulations have changed since the business was first built, sidewalks would be required by the Subdivision Regulations. Further he stated that sidewalks are reasonable in this area as the location is an urban environment and pedestrians are present in the area. He stated that the applicant would have the opportunity to apply for a waiver of sidewalks if necessary.

Mr. Pellish moved to approve the Concept Plan as presented with a recommendation to perform engineering design to alleviate the traffic concern at the southernmost Flowing Springs Road entrance. Mr. G. Taylor seconded the motion which carried unanimously.

6. **Request by Jim Taylor of the National Humane Society on behalf of Briggs Animal Adoption Center for a waiver from the Subdivision Regulations Section 21.202B, Section 22.208 and Appendix B 9.6C requiring sidewalks to be provided in non-residential development. This property is located on the west side of US Route 340 approximately 1300 feet north of its intersection with Route 340/2 (Wheatland Road) and is designated as Tax District: Kabletown, Map: 11, Parcel: 1.**

Mr. Rivard presented the waiver request and reminded the Planning Commission that this issue had been voted on in June when the Briggs Animal Adoption Center Concept Plan was heard. He explained that the request had not been properly noticed at that time and that the waiver application had since been formally submitted and noticed according to the Subdivision Regulations. He read from his staff report and recommended that a 10 foot easement be dedicated instead of the actual installment of sidewalks.

The applicant was not present for comment.

Mr. Hayes opened the public hearing. There was no comment. Mr. Stolipher moved to close the public hearing. Mr. Pellish seconded the motion which carried unanimously.

Mr. Stolipher moved to approve the waiver request stating that it met all of the 4 criteria as outlined in Division 24.300 of the Jefferson County Subdivision Regulations. Mr. Pellish seconded the motion which carried unanimously.

7. **Requests by Asbury United Methodist Church for two waivers from the Subdivision Regulations:**
- a. **Section 21.202B, Section 22.208 and Appendix B 9.6C requiring sidewalks to be provided in non-residential development.**
  - b. **Appendix B Section 2.3(B) (6) requiring a 30' minimum curb radii at the site development access drive intersection with the subdivision street or public highway.**

**This property is located on Route 480 (Kearneysville Pike) between Starkeys Landing and Potomac Farms Drive and is designated as Tax District: Shepherdstown, Map: 8, Parcel: 7.2.**

Mr. Rivard presented the location of the property and the proposed activity on the site. He remarked that this location would be ideal for sidewalks as there is a park trail across the street, a trail to the north and sidewalks in the subdivision directly adjacent to the church property. He indicated however, that the topography of the church property makes the installation of the sidewalks difficult due to a stormwater management feature. He read from his staff report and recommended approval with the condition that a 10 foot sidewalk/bike path easement be dedicated.

Mr. Rob Holmes, of Frederick, Seibert and Associates, stated that there would be no room for sidewalks due to the drainage of the property and the widening of Kearneysville Pike.

Mr. Saunders presented his staff report regarding the curb radii at the site development access drive and recommended denial. He stated that the proposed culvert could be moved to the southwest and the 30' radius requirements could be used to provide for easier access to the site.

Mr. Holmes explained that the applicant is improving the road and adding an acceleration lane to the south. He stated that a 20' turning radius is appropriate for automobiles and respectfully requested that it be allowed to remain a 20' radius.

Mr. Hayes opened the public hearing. There was no public comment. Mr. Stolipher moved to close the public hearing. Mr. Pellish seconded the motion which carried unanimously.

Mr. Pellish moved to approve the waiver of the sidewalk since the request meets the 4 criteria as outlined in Division 24.300 of the Jefferson County Subdivision Regulations and requested that the applicant work with staff on providing a sidewalk/bike trail easement. Mr. G. Taylor seconded the motion which carried unanimously.

Mr. Stolipher moved to approve the waiver of the 30' minimum curb radii and to allow the 20' curb radii since the request meets the 4 criteria as outlined in Division 24.300 of the Jefferson County Subdivision Regulations. Mr. Pellish seconded the motion which carried 4 for and 1 opposed (Mr. Baty).

8. **Presentation of a petition by the Bank of Charles Town 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 Rural and the applicant is requesting Residential/Light Industrial/Commercial zoning. This property is located at the intersection of US 340 and Washington Street in Harpers Ferry and is designated as Tax District: Harpers Ferry, Map: 7, Parcels: 24 and 26.**

Mr. Rivard presented the request and recommended that the public hearing be held at the October 9, 2012 Planning Commission meeting to allow proper noticing requirements to be met and to meet the requirement of holding a public hearing within 60 days.

Mr. Scott Faulkner, holder of a sales contract on adjoining parcels, stated that he would like to raise a point of order that would affect the scheduling of the public hearing. Mr. Hayes consulted legal counsel and allowed Mr. Faulkner to comment. Mr. Faulkner stated that the Planning Commission, by holding a public hearing, would be aiding and abetting the Bank of Charles Town to violate Chapter 7 of the Code of Federal Regulations and the Federal Reserve Act and also under the Controller of the Currency 12 US Code 29 Section 219 which he reported states that a state chartered bank may not hold real estate, may not speculate on real estate, and may not improve real estate. He cautioned the Planning Commission that the rezoning request was a blatant violation of Federal Banking laws and encouraged the board to seek legal counsel before proceeding. Mr. Groh stated that the Planning Commission

could schedule the public hearing and that arguments of this nature could be made at the public hearing.

Mr. Stolipher moved to schedule for the October 9, 2012 Planning Commission meeting. Mr. Pellish seconded the motion which carried unanimously.

9. **Presentation of a petition by John D. Lowe, III 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 45 (Martinsburg Pike) and on the east side of Potomac Farms Drive and is designated as Tax District: Shepherdstown, Map: 8, Parcel: part of 5.**

Mr. Rivard presented the request and recommended that the public hearing be held at the October 9, 2012 Planning Commission meeting to allow proper noticing requirements to be met and to meet the requirement of holding a public hearing within 60 days.

Mr. Richard Klein, representing the applicant, requested that this rezoning request be scheduled for a different meeting from the Bank of Charles Town rezoning request. He stated that the applicant would be willing to waive the 60 day requirement to allow for alternative scheduling.

Mr. Stolipher moved to hold a special meeting on October 23, 2012 specifically to hearing any scheduled rezoning requests. Mr. G. Taylor seconded the motion which carried unanimously.

Mr. Stolipher moved to schedule this rezoning request for October 23, 2012. Mr. G. Taylor seconded the motion which carried unanimously.

Mr. Hayes called for a recess at 8:15 PM. Mr. Hayes called the meeting back to order at 8:20 PM. Mr. Hayes asked to hear item #11 before item #10.

#### 11. **Reports from Legal Counsel and legal advice to PC.**

##### **Active Litigation:**

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

Mr. Groh stated that the appeal for the Far Away Farms case is still pending. He stated that the Cedar Airpark case is also still pending until the issue of having attorneys with conflicting interest is resolved.

#### 10. **Detailed presentation regarding the proposed 2014 Comprehensive Plan Scope of Work and Timeline, including an overview of WV Code Section 8A requirements and a review of the 2004 Comprehensive Plan recommendations.**

Ms. Brockman gave a detailed presentation of the proposed 2014 Comprehensive Plan scope of work and timeline. The report included an overview of what was accomplished in the

2004 Comprehensive Plan, the responsibilities of the Planning and County Commissions, the components of a Comprehensive Plan, Staff's recommendations on work strategies and time frames and extensive public outreach approaches. Ms. Brockman discussed the implementation of a Technical Advisory Committee and a Steering Committee and explained the benefit each would have in developing the 2014 Comprehensive Plan. She distributed copies of the PowerPoint that was used for the presentation to the Planning Commissioners. She stated that there would be a joint meeting between the Planning Commission and the County Commission on September 13, 2012 at 7 PM and requested that all Planning Commission members attend if possible.

Mr. Pellish expressed his support of staff throughout this project and stated that he would like for this undertaking to be staff driven without input from professional consultants. Mr. Pellish cautioned that the committees should remain small enough to be manageable. He stated that since an additional 2 year contractual staff person would be requested, that person might be able to act as a facilitator to the meetings.

Mr. Stolipher suggested adding a representative from the Jefferson County Farm Bureau to the Steering Committee. He recommended keeping the 2014 Comprehensive Plan simple and business friendly.

Mr. Baty stated that a good facilitator would be necessary and that using an additional staff member for that role may not be the best strategy.

Ms. Brockman requested that the Planning Commission bring ideas for the Steering Committee to the joint meeting on September 13, 2012.

## **12. Director's Report.**

Ms. Brockman distributed a memo of US 340 project meetings that will be held over the next 2 months to clarify which meetings are regarding the US 340 East Gateway Plan and which are for other projects.

Ms. Brockman reminded the Planning Commission of the September 13, 2012 joint meeting with the County Commission.

Ms. Brockman reported that the County Commission had approved the rezoning request for the Gene Capriotti property.

Ms. Brockman stated that the County Commission would be holding a public workshop on August 16, 2012 regarding potential amendments to the Zoning Ordinance text regarding the creation of new Commercial/Industrial Zoning Categories and related amendments with a public hearing to be held September 6, 2012. She also related that there would be a County Commission workshop to be held tentatively on August 23, 2012 regarding the US 340 East Gateway Plan.

## **13. County Commission Liaison Report. None.**

**14. Planning Commission Exchange.**

- **Report from the Health Department Meeting Liaison.**  
Mr. Hayes stated that a replacement for Mr. Burns would be discussed at a future meeting.
- **Report from the Public Service District Meeting Liaison.**  
Mr. Hayes stated that a replacement for Mr. Burns would be discussed at a future meeting.
- **Report from the Parks and Recreation Meeting Liaison.**  
Mr. G. Taylor reported that the Hite Road Park project was moving forward.
- **Report from the Jefferson County Development Authority Meeting Liaison.**  
Mr. Stolipher volunteered to attend these meetings in place of Mr. Burns.
- **Report from the Water Advisory Committee Meeting Liaison.**  
Mr. Baty reported that Mr. Roger Ethier would be stepping down and that Ms. Mary Sell would take over the position of Chairmen. He reported on the river clean-up that occurred in July.

**15. President's Report.** None.

**16. Actionable Correspondence.** None.

**17. Non-Actionable Correspondence.** None.

Mr. Hayes adjourned the meeting at 9:19 PM. 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.