

MINUTES
JEFFERSON COUNTY PLANNING COMMISSION
SEPTEMBER 11, 2012

The Jefferson County Planning Commission met on Tuesday, September 11, 2012 with the following Commission members present: Morgan Ethers, Secretary; Kelly Baty, Gene Taylor, J.P. Phillips, Steve Stolipher, Daniel Hayes and Walt Pellish. Staff members present included Jennifer Brockman, Director of Planning and Zoning; Seth Rivard, Planner; Jonathon Saunders, County Engineer; Steve Groh, Prosecuting Attorney; and Dawn Childs, Office Manager.

Mr. P. Taylor and Mr. Eric Smith were absent with notification.

Mr. Hayes called the meeting to order at 7:00 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.

Mr. Phillips had not yet been sworn in and could not act as a voting member.

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

Mr. Pellish moved to approve the minute of the August 14, 2012 Planning Commission meeting. Mr. G. Taylor seconded the motion which carried 4 for and 1 abstention.

2. Citizens Communication. None.

3. Request for postponement. None.

4. Presentation of a petition by the John and Mike Thomas (Jefferson Asphalt Products, Inc.) 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 on the south side of WV Route 51 near the Tuscowilla Hills entrance approximately 2 miles west of Charles Town and is designated as Tax District: Charles Town; Tax Map: 13; Tax Parcel: 7.

Ms. Brockman presented the request and recommended that the public hearing be held at the previously scheduled October 23, 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. Stolipher moved to schedule this zoning map amendment request on the October 23, 2012 Planning Commission meeting agenda. Mr. Pellish seconded the motion which carried unanimously.

Mr. Kelly Baty entered the room.

5. **Presentation of a petition by the Aitcheson Family Trust (Roger and Wanda Perry) and Frederica Adkinson 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 of US Route 340 on Campground Road approximately a half mile east of its intersection with Old Taylor Lane and is designated as Tax District: Harpers Ferry; Tax Map: 7; Tax Parcel: 18.**

Mr. Rivard stated that the applicant has requested to waive the 60 day requirement to allow for the public hearing to be held on November 13, 2012.

Mr. Stolipher moved to schedule this zoning map amendment request on the November 13, 2012 Planning Commission meeting agenda. Mr. Pellish seconded the motion which carried 5 for and 1 opposed (Mr. Baty).

6. **Request by Marty and Carol Kable for a variance from the Subdivision Ordinance Article 2, Section 2.1(B) to lift the 5 year parent-to-child restriction and allow for the transfer of three parent-to-child lots. These properties are located approximately one mile east of Leetown Pike near the intersection of Hite Road and Jefferson Orchard Road and is designated as Tax District: Middleway, Map: 9, Parcels: 2.14, 2.15 and 2.16.**

Mr. Rivard described the location of the property and explained that the 5 year restriction prevented the lots from being transferred to the buyer of the entire subdivision. He reported that the buyer of the lots has agreed that these lots would not be transferred, sold, or built on until September 12, 2013 to honor the intent of restriction to the full extent of the 5 years. He stated that staff recommended approval of the variance.

Mr. Marty Kable, applicant, reiterated his reason for requesting the variance. He explained that a tolling agreement existed on the property and would be transferred to the buyer. He reported that the tolling agreement had been approved approximately one year ago for a total of four years.

Mr. Hayes opened the public hearing.

Ms. Linda Barnhardt, representing the Kent Cartridge Corporation, the adjoining property owner, explained that they would be buying the property to enhance their currently owned property and that there was currently no intention of subdividing or development or further sale of the property.

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

Mr. Stolipher moved to approve the variance request to lift the 5 year parent-to-child restriction to allow for the transfer of the three parent-to-child lots in accordance with the staff recommended motion. Mr. Pellish seconded the motion which carried unanimously.

- 7. Request by R.J. Sepco, Inc. on behalf of Sheetz 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 at 51 Flowing Springs Road, Charles Town and designated as Tax District: Charles Town, Map: 8, Parcel: 11.5.**

Mr. Stolipher recused himself due to a conflict of interest and left the room.

Mr. Rivard described the location of the property and explained the waiver request. He commented that the area in which Sheetz is located is ideal for sidewalks. However, he stated that the area between the WV Department of Highways (WVDOH) right-of-way and the parking lot of Sheetz would allow for either a sidewalk or landscaping, not both. He remarked that at this time staff would prefer the landscaping to remain. He reported that staff had contacted the WVDOH to inquire as to whether or not a sidewalk could be placed within the right-of-way. He informed the Planning Commission that the WVDOH Administration Manager assigned to answer the inquiry was away from his office for an extended period of time and was unable to provide a determination in time for this meeting. He stated that staff's recommendation would first be to postpone action until the next Planning Commission meeting to allow for response by the WVDOH. He stated that, if the Planning Commission would decide to take action at this meeting, staff would recommend that a ten foot pedestrian/bike easement be required for the length of the property along Flowing Springs Way and Washington Street. Mr. Rivard reported that the applicant had expressed agreement to a ten foot easement.

Mr. Rick Turner, of Diamond Z Engineering, explained the need for the waiver request.

Mr. Mark Dyck, of William H. Gordon Associates, raised concern that postponing action would delay the project further and that time was critical since the construction season was nearing an end. He stated that he felt a motion could be drafted which incorporated action to be taken if a decision were to be made by the WVDOH that would allow a sidewalk to be constructed in the right-of-way instead. He commented that the WVDOH may not respond by the next meeting and that would force another delay to the project unnecessarily. He urged the Planning Commission to take action at this meeting.

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

Mr. Pellish moved to approve the waiver with the condition that the applicant provide a ten foot pedestrian/bike easement on the property or to erect a sidewalk within the WVDOH right-of-way if permitted by the WVDOH. Mr. Rivard stated that a motion would be drafted to be included in the minutes that would specify that language. Mr. G. Taylor seconded the motion which carried unanimously.

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

Active Litigation:

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

Mr. Groh stated that the Cedar Meadows Airpark case was still on hold until October.

Mr. Groh reported that he had received a scheduling order from the Supreme Court on the appeal in the Far Away Farms case. He stated that response times to the appeal extend until the first part of December.

9. Director's Report.

Ms. Brockman reported that there would be a joint Planning Commission/County Commission meeting held Thursday, September 13, 2012 at 7 PM regarding a proposed Timeline and Work Plan for the 2014 Comprehensive Plan. She encouraged attendance.

Ms. Brockman stated that the County Commission had held a public hearing regarding the proposed New Commercial and Industrial Zoning Categories on September 6, 2012 and that the public hearing was left open for 2 weeks to allow for written public comment.

Ms. Brockman reported that staff presented the US 340 Gateway Plan to the County Commission who asked that an informal public workshop be held prior to the public hearing. She commented that the workshop would be scheduled for September 27, 2012.

Ms. Brockman informed the Planning Commission that a WV DOH US 340 South 4-Lane Project meeting held at Page-Jackson Elementary School on September 24, 2012 from 4 PM–7 PM. She stated there would also be a Hagerstown Eastern Panhandle Metropolitan Planning Organization meeting regarding the Bakerton/Millville Proposed Traffic Light held Monday, September 17, 2012 at 6 PM in the County Commission meeting room.

10. County Commission Liaison Report. None.

11. Planning Commission Exchange.

- **Report from the Health Department Meeting Liaison.** None.
- **Report from the Public Service District Meeting Liaison.** None.
- **Report from the Parks and Recreation Meeting Liaison.** None.
- **Report from the Jefferson County Development Authority Meeting Liaison.** None.
- **Report from the Water Advisory Committee Meeting Liaison.** None.

12. President's Report. None.

13. Actionable Correspondence. None.

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14. Non-Actionable Correspondence. None.

Mr. G. Taylor moved to adjourn the meeting at 7:50 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.