

MINUTES
JEFFERSON COUNTY PLANNING COMMISSION
OCTOBER 23, 2012

The Jefferson County Planning Commission met on Tuesday, October 23, 2012 with the following Commission members present: Paul Taylor, President; Morgan Etters, Secretary; Kelly Baty, J.P. Phillips, 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; Stephen Groh, Prosecuting Attorney; and Amy Puetz, Planning Clerk.

Eric Smith was absent and Gene Taylor was absent with notification.

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

1. Approval of the minutes for the October 9, 2012 meeting.

Mr. Stolipher moved to approve the minutes of the October 9, 2012 Planning Commission meeting. Mr. Pellish seconded the motion which carried unanimously.

2. Citizens Communication. None.

3. Request for postponement. None.

4. Public Hearing for Zoning Map Amendment (Rezoning) for property designated as Tax District: Shepherdstown, Map: 8, Parcel: part of 5. This property is currently zoned Residential Growth and Residential/Light Industrial/Commercial zoning is being requested. This property is located on the south side of Route 45 (Martinsburg Pike) and on the east side of Potomac Farms Drive and is a total of 8.07 acres. The owner of record is John D. Lowe, III.

Mr. Rivard described the location of the property and discussed the Planning Commission's role in this request.

Mr. Baty entered the room at 7:09 PM.

Mr. Richard Klein, of Alpha Associates, representing the Lowe family, stated that the request is to rezone 8.07 acres of a 41.4 acre parcel. The 8.07 acres is divided from the remainder of the parcel by Potomac Farms Drive. He commented that the property is in an identified growth area outlined in the 2004 Comprehensive Plan and surrounded by urban level development. He stated that the property has water and sewer available to serve the property. He explained that, prior to the construction of Potomac Farms Drive, a mulching plant and nursery owned by the Lowe family existed on that property and that the zoning was determined to be residential despite its commercial use. Mr. Klein detailed reasons why the applicant felt the property was appropriate for the rezoning request.

Mr. Rivard presented the staff report and stated that staff finds the request to be in conformance with the 2004 Comprehensive Plan. He reiterated that the property lies within

the growth boundary, is bordered on 3 sides by urban development, and that water and sewer are available to the property.

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

Mr. Stolipher moved to recommend approval of the rezoning request to the County Commission. Mr. Pellish seconded the motion and offered a friendly amendment to use the staff recommended motion (attached). Mr. Stolipher accepted the friendly amendment. The motion passed unanimously.

- 5. Public Hearing for Zoning Map Amendment (Rezoning) for property designated as Tax District: Charles Town, Map: 13, Parcel: 7. This property is currently zoned Rural and Residential/Light Industrial/Commercial zoning is being requested. This property is located on the south side of Route 51 near the Tuscowilla Hills entrance approximately 2 miles west of Charles Town and is a total of 34.27 acres. The owner of record is Jefferson Asphalt Products, Inc.**

Mr. Rivard described the location of the property and discussed the Planning Commission's role in this request.

Ms. Annette van Hilst, of the Crossroads Group, representing Jefferson Asphalt, provided the Planning Commission with a Power Point presentation. She commented that staff suggested that the applicant apply for rezoning at a Pre-proposal Conference that was held prior to the recent Concept Plan submission. She explained that the commercial use of the asphalt plant was in place prior to zoning and that the property should have been placed in a commercial or industrial type zone. She stated that the owners were requesting a rezoning to fix the non-conforming use of the property. She described the surroundings of the property and gave supporting reasons of why the applicant felt the request was in conformance with the 2004 Comprehensive Plan. She commented that adjacent uses have intensified since zoning was adopted.

Mr. Pellish asked why the applicant wished to rezone the property if the current use was allowed under the non-conforming use. Ms. Van Hilst explained that the applicant may want to phase out the industrial use of the property without losing the commercial use options.

Mr. Rivard presented the staff report and stated that the property, which was within the Urban Growth Boundary of Charles Town, was not within the growth area of the 2004 Comprehensive Plan. He explained that, while staff did suggest a possible rezoning request at the time of the Pre-proposal Conference, WV State Code allows the non-conforming industrial use to exist on the property in perpetuity. He stated that after further review, staff's opinion was that the non-conforming use of the property would not present as much of an issue as originally thought. Mr. Rivard commented on the entrance issues of the site in relation to the proximity of the railroad tracks and to the existing conditions of Route 51. He reminded the Planning Commission that the current industrial use of the property would not

be permitted in a Residential/Light Industrial/Commercial zoning designation. He stated that staff does not recommend approval of this request.

Ms. Van Hilst rebutted the staff report stating that the property is not within the growth area but is adjacent to the growth area. She explained that her understanding is that the growth area outlined in the 2004 Comprehensive Plan is a generalization while the UGB is a refined boundary. She stated that the Urban Growth Boundary should supersede the growth area of the 2004 Comprehensive Plan. She commented that the applicant did not wish to annex the property as suggested in the staff report. She stated that any traffic issues that the property may have should be addressed at the Site Plan process of any future project. She reiterated that the applicant requested the rezoning due to a desire to eventually remove the industrial use from the property without losing commercial use options.

Mr. Groh reminded the Planning Commission that approval of the requested rezoning would not make the industrial use a conforming use.

Mr. P. Taylor opened the public hearing.

Mr. Cricky Shultz, local developer, spoke in support of the approval of the rezoning request.

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

Mr. Pellish asked if the owner had discussed proposed uses with surrounding neighborhoods.

Mr. John Thomas, owner of Jefferson Asphalt, stated that he had not discussed proposed or potential uses with neighbors. He stated that he had received complaints over the years of the industrial use and would like to dissolve that use on the property without leaving just rural use options.

Mr. Pellish suggested that Mr. Thomas hold an open discussion with neighbors.

Mr. Stolipher moved to recommend approval of the request to the County Commission as the request is consistent with the 2004 Comprehensive Plan. Mr. Hayes seconded the motion and offered a friendly amendment to use the staff recommended motion (attached) except that any language declaring denial of the request be changed to state approval of the request. Mr. Stolipher accepted the friendly amendment.

Ms. Etters stated that the requested zoning category has a very broad range of uses. She urged the Planning Commission to look at each use before recommending approval of this request. She commented that the requested zoning category is too broad for the area.

The motion carried 5 for and 2 against (Mr. P. Taylor and Ms. Etters).

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Mr. Hayes moved to adjourn the meeting at 8:11 PM. Mr. Stolipher 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.