

MINUTES
JEFFERSON COUNTY PLANNING COMMISSION
December 11, 2012

The Jefferson County Planning Commission met on Tuesday, December 11, 2012, with the following Commission members present: Eric Smith, Vice-President; 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; Steve Barney, Zoning Administrator; Stephen Groh, Assistant Prosecuting Attorney and Jennilee Hartman, Zoning Clerk.

Paul Taylor, President; Morgan Eppers and Kelly Baty were absent with notification.

Mr. Smith presided over the meeting in Mr. P. Taylor's absence. Mr. Smith called the meeting to order at 7:00 PM

1. Approval of the minutes for the November 13, 2012 meeting.

Mr. Hayes moved to approve the minutes of the November 13, 2012 Planning Commission meeting. Mr. G. Taylor seconded the motion which carried unanimously.

- 2. Citizens Communication.** Ms. Brockman clarified that this item would be for any members of the public who wished to speak on an item that is not on the agenda as a public hearing item. There was no public comment.
- 3. Request for postponement.** None.
- 4. Public Hearing for Zoning Map Amendment (Rezoning) for property designated as Tax District: Harpers Ferry, Map: 7, Parcel: 18. 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 US Route 340 on Campground Road approximately a half mile east of its intersection with Old Taylor Lane and is a total of 3.94 acres. The owner of record is the Aitcheson Family Trust (Z12-05).**

Ms. Annette van Hilst, the applicant's representative, presented the rezoning request to the Commission. Due to technical difficulties Ms. van Hilst provided the Commission a hardcopy of a detailed Power Point presentation that included maps and pictures of the site and adjacent areas (see PC File #Z12-05 for a copy). Ms. van Hilst listed current principle permitted uses for the site in addition to the land uses of the surrounding area, focusing on the commercial entities. Further, Ms. van Hilst discussed the location of the property within the growth area as depicted in the 2004 Comprehensive Plan, the major changes to the area since the adoption of the zoning map and its consistency with the 2004 Comprehensive Plan. Ms. van Hilst concluded that the close proximity of several tourist attractions, as well as the Harper's Ferry National Historic Park's Transportation Hub, and the accessibility of nearby water and sewer facilities make this property a suitable candidate for rezoning.

Mr. G. Taylor asked about the type of uses and parking for the site. Ms. van Hilst responded by stating that a craft store could be a possible use and that parking would be determined based on the land use. Ms. van Hilst stated there had been no land use planned for the site at this point. Mr. Hayes inquired about the existence of facilities. Ms. van Hilst explained that Harpers Ferry had water and sewer lines approximately 500' from the site.

MINUTES
JEFFERSON COUNTY PLANNING COMMISSION
DECEMBER 11, 2012
PAGE 2 of 6

Mr. Rivard opened by explaining the Planning Commission's role in the rezoning process. Mr. Rivard pointed out that they must find whether or not the applicant's request is consistent with the 2004 Comprehensive Plan and that their determination will be forwarded to the County Commission for final approval. Mr. Rivard delivered a Power Point presentation which included a series of maps, a report of Staff's findings, the various elements to consider when reviewing a rezoning request and a list of possible land uses in the proposed zoning district. Mr. Rivard provided the Commission information from his staff report confirming Ms. van Hilst's assessment of the property in that the current zoning supports high density and institutional uses. Mr. Rivard explained that any land use other than residential would be required to meet the site plan standards. Mr. Rivard identified current highway and traffic matters in addition to the expansion of the National Park Service property and the growth of historic tourism. Mr. Rivard clarified for the record that regardless of this zoning district fast food restaurants and convenient stores would necessitate a conditional use permit however consideration of the LESA point system would not be required.

Mr. Hayes motioned to open the public hearing. Mr. Pellish seconded the motion, which carried unanimously.

Marcie Steerman, neighbor, stated she was speaking on behalf of herself and the Longerbeams (neighbors) who were unable to make the meeting but were in opposition to the rezoning. Ms. Steerman objected to the rezoning based on increased traffic safety concerns for those walking the neighborhood, that the narrow lot width will not accommodate tractor trailer turnarounds and that certain potential commercial endeavors are not consistent with local tourism (i.e. reference to 7-11 gas stations). Ms. Steerman argued that the County had over 50 commercial properties listed for sale, including a strip mall and that there was no shortage of commercial lots currently on the market. Lastly, Ms. Steerman stated she believed the decision to act on the rezoning would be premature and petitioned the Planning Commission to postpone their decision until the 2014 Comprehensive Plan was adopted. Mark Thifault, neighbor, reiterated Ms. Steerman's apprehensions regarding the increased traffic on their road stating it was a small road and not equipped to handle trucks backing up. Mr. Thifault also expressed his concern for the safety of the neighborhood children who played on the road.

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

Ms. van Hilst rebutted some of the neighbor's concerns by stating that the majority of the oncoming traffic would be traveling on Campground Road and not on Murphy Road, from which the speaking members of the public lived. It was also noted that the potential land use would not be a heavy industrial use and that larger trucks are not expected. Mr. Hayes clarified that any commercial use proposed for the site would have to meet current site plan standards, which include turnaround radii. Mr. Stolipher moved to approve the rezoning stating that it meets the criteria. Mr. Hayes seconded the motion and stated that he wished to clarify for the record that the only criteria necessary for granting a rezoning is whether a request is consistent with the 2004 Comprehensive Plan. Mr. Smith called for a vote which carried five (5) in support of the rezoning and one (1) in opposition (G. Taylor).

5. **Concept Plan Review and Public Workshop for Morgan's Grove Market (PC File #S12-06). This property is located at 3988 Kearneysville Pike (Rt. 480), adjacent to Morgan's Grove Park and is designated as Tax District: Shepherdstown; Tax Map: 13; Tax Parcel: 26.1, 26.2, 26.3 and 26.4. This project consists of an agricultural-based market. Intended uses are to consist of, but are not limited to, a Food Hub, General Merchandise (retail), Professional/Business Offices, Community Amenities, and other associated uses.**

Mr. Fred Blackmer with FB solutions was present to address the Commission. Peter Corum explained the purpose of Morgan's Grove Market (hereinafter known as MGM). Mr. Corum gave a brief synopsis of the MGM project explaining how it grew from a small farmer's market into a large collaborative effort within the community to have the multiple practices of health and wellbeing to be located on one site. Mr. Corum introduced his associates affiliated with the project, Matt Ridgeway, Real Estate Agent; Dirk Stansbury, Engineer; Linda Gutsell, Attorney; John Helmen, Architect.

Mr. Rivard commented on the staggered location of the buildings and how they are designed towards the front of the property as required by the conditional use permit (hereinafter known as CUP). Mr. Rivard noted that the project will require a traffic impact study to be completed, however due to the road improvements that the applicant is proposing along Route 480 that Staff would be willing to support a waiver of that requirement. The Commission discussed the necessity of giving direction and Staff informed the Commission that while the Subdivision Regulations allowed the Commission to take such action it was not required. The Commission asked if direction could be given outside the requirements of the Regulations. Staff stated that while direction could be given to that effect, the Developer would be under no obligation to fulfill that direction. Mr. Pellish expressed his frustration with the process considering that this particular application had undergone a separate public hearing. Further discussion ensued regarding giving direction. Staff suggested a benefit to giving direction, perhaps under a different circumstance, that the Commission could request the Developer include extra screening due to public comment. The Developer is not obligated to do so however they may choose to follow the direction. Mr. Pellish asked why this applicant was required to hold a public workshop when they had already had a public hearing. Staff explained that the Regulations did not make special exceptions for those who had undergone a CUP.

Mr. Stolipher motioned to open the public workshop. Mr. Hayes seconded the motion, which carried unanimously.

Mike Austin with the Shepherdstown Community Club stated the CUP included a list of conditions that the Developer was required to meet. Mr. Austin expressed his concern that the water and sewer plans were not clear at this phase. Ann Spurgas, neighbor, expressed her concern regarding the two entrances. Ms. Spurgas also requested that the sign for the project be located towards the Morgan's Grove Park sign and not directly across from her property. Mr. Joe Spurgas, neighbor, stated that he believed a traffic impact study would be necessary. Mr. Spurgas reiterated Ms. Spurgas distress over the location of the sign as there would be no buffering from the proposed development and their property. Mr. Spurgas asked that the Commission require the Developer to follow all procedures. Mr. Rivard directed the Commission's attention to an email that had been received by the office which was dispersed to the Commission prior to the meeting as part of public testimony (see PC File#S12-06 for a copy of the email from Mr. Bill Lewandowski).

Mr. Hayes motioned to close the public workshop. Mr. G. Taylor seconded the motion, which carried unanimously.

Mr. Hayes had questions regarding the T-turnaround represented on the concept plan. Mr. Stansbury addressed the Commission and answered Mr. Hayes additional questions regarding site design. It was further clarified that the Planning Commission was approving the entire Concept Plan for MGM with the site plan being submitted in subsequent phases. Mr. Hayes motioned to approve the Concept Plan with no direction using the motion as provided by staff (Motion attached by reference). Mr. Pellish seconded the motion, which carried unanimously.

6. Discussion and possible action regarding the “Interpretive Appeals and Procedure Workshop” presentation that will allow options to appeal a decision or interpretation of staff heard at the November 13, 2012 meeting.

The Commission took no action on this item.

7. Request by Fred Blackmer for an administrative decision by the Planning Commission regarding initiation of site grading for Morgan’s Grove Market prior to approval of the Site Plan (S12-06).

Mr. Fred Blackmer with FB solutions explained the nature of the request to the Commission. Mr. Blackmer explained the necessity in beginning site grading and how waiting until the approval of the full site plan would hinder the applicant’s development timeline. Mr. Blacker went on to elaborate on the lengthy site plan process and that by authorizing the separation of the site grading plan from the remaining site plan standards it could allow the applicant to begin construction while continuing the rest of the review without any risk to adjacent property owners. Mr. Blacker stated that this type of request has been asked of the Commission in the past. Mr. Blackmer stated that if any changes were made to the approved site plan from what had been approved on the grading plan that the applicant would assume all financial risk. Mr. Blackmer defined surface grading as, “a contouring the surface of the site to meet the stormwater management issues; to create the areas where the parking are going to be; to actually shape the site on the contour lines that are reviewed by the Engineering Department.” Mr. Hayes commented that this type of processing is done in other jurisdiction. Mr. Saunders confirmed that the Department of Environmental Protection will require a permit if more than 1 acre of the site will be cleared. Mr. Steve Groh reminded the Commission that this item is not a waiver hearing and that Section 24.300 requires a 14 day notice for waivers. It was stated that when STaSIS processed this similar request it was done as a waiver which was noticed, and required a site grading plan and bonding. The Planning Commission and Staff had a discussion regarding a realistic timeframe for processing a site grading plan. The Commission directed Staff to review the site grading plan concurrently with the review of the waiver request in anticipation of approval of said waiver at the January 8, 2013 Planning Commission meeting. The January 8, 2013 meeting will be open for public comment.

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

Active Litigation:

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

There was no action or discussion on this item.

9. Director's Report.

Ms. Brockman updated the Commission on the following topics:

- 1) Transition of Clerical Staff: Planning Clerk, Amy Puetz, and Office Manager, Dawn Childs, have resigned. The office is currently interviewing for their positions. Ms. Hartman will be the Planning support in the interim.
- 2) Activity Report (included in the packet)
- 3) Envision Jefferson 2035 (2014 Comprehensive Plan) Update
 - a) Website/Public Outreach Efforts
 - b) Chris Whittaker hired as 2 – year Comprehensive Plan Planner; start date December 10, 2012 (this date was extended to the following week)
 - c) Steering Committee
 - d) Facilitator
- 4) Recent County Commission Meetings relevant to Planning
 - a) Public Hearing Scheduled for 11/29/12 at 7:00 pm rescheduled upon request by the applicant until early 2013
 - b) Recommendation of the Planning Commission to the County Commission on the landowner-initiated petition to amend the County Zoning Map for a 34.27 acre property owned by Jefferson Asphalt Products, Inc (D: 2/M: 13/ P: 7).
 - c) Recommendation of the Planning Commission to the County Commission on the landowner-initiated petition to amend the County Zoning Map for a 8.07 acre property owned by John D. Lowe, III (D: 9/M: 8/ P: part of 5).
 - d) Request for County Commission Approval of the US 340 Corridor East Gateway Plan, Incorporating Staff Recommended Changes Based on Public Comment. (11/15/12; no action taken on the Plan – informally recommended to be forwarded to Steering Committee for their reference)
 - e) Request to advertise vacant budgeted Project/Office Manager position. (11/15/12; approved request to advertise as well as to advertise for vacant budgeted Planning Clerk position)
 - f) Approval of job offer for 2 year temporary Comp Plan Planner Position to Chris Whittaker. (11/15/12)
 - g) Approval of Contract with a Facilitator for the Envision Jefferson 2035 Public Meetings. (11/15/12; approved contingent on reference check and legal approval of contract)
- 5) Upcoming County Commission Actions
None
- 6) Upcoming Planning Commission Meetings
 - a) January 8, 2013

A copy of the Director's Report, December 11, 2012, was made available in the uploaded Planning Commission packet.

10. Monthly Development Activity Report.

Mr. Rivard presented the November Monthly Development Activity Report.

11. County Commission Liaison Report.

Mr. Pellish explained that the applicant of the BCT rezoning request approached the County Commission and stated that they requested a postponement of the public hearing due to pending negotiations of the property. Mr. Pellish also commented in the County Commission's disinterest in adopting the 340 Study at this time however they appreciated all of the work that was involved in the drafting of the document.

12. Planning Commission Exchange.

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

Ms. Brockman continued her report from the previous month regarding the digitizing of records and announced that the Health Department was willing to match funding provided the County Commission would do likewise. An RFP is currently being drafted.

- **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.**

Mr. Stolipher wanted to raise a point of concern to the Commission. Mr. Stolipher was informed that when a business/industry is looking to locate in an area they conduct research regarding the location. As part of that research a consultant researches local newspapers to check the local climate, how fast approvals are being done and so forth. Mr. Stolipher suggested the Commission take this under advisement.

- **Report from the Water Advisory Committee Meeting Liaison.** None.

13. President's Report. None.

14. Actionable Correspondence. None.

Mr. Stolipher questioned if there was any written policy on allotted time limits for members of the public. The Commission also expressed a desire to limit speakers to those who sign in at the onset of the meeting. The Commission discussed amending the Bylaws regarding public speaking.

15. Non-Actionable Correspondence. None.

Mr. G. Taylor moved to adjourn the meeting at 8:51 PM. Mr. Hayes 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 Jennilee Hartman, Zoning Clerk.