

MINUTES  
JEFFERSON COUNTY PLANNING COMMISSION  
JUNE 14, 2011

The Jefferson County Planning Commission met on Tuesday, June 14, 2011, with the following Commission members present: Daniel Hayes, President; Arnold Dailey, Vice-President; Morgan Eppers, Secretary; Gene Taylor, Kelly Baty, Ed Burns, Eric Smith, and Walt Pellish. Staff members present included Seth Rivard, Planner; Steve Barney, Zoning Administrator; Jonathon Saunders, County Engineer; Stephanie Grove, Assistant Prosecuting Attorney; and Amy Puetz, Planning Clerk.

Mr. Paul Taylor was absent with notification.

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

1. **Guest Speaker: Dale Manuel to address Parliamentary Procedure and Robert's Rules of Order.**

Mr. Manuel gave an overview of Robert's Rules of Order, proper procedure for running a meeting and for providing motions.

Mr. Eric Smith entered the room at 7:13 PM.

Mr. Arnold Dailey entered the room at 7:15 PM.

2. **Guest Speaker: Stephen Groh to discuss motions and Findings of Fact; Ex Parte Contact; and provide an ethics overview.**

This item was postponed to the June 28, 2011 Planning Commission Meeting.

3. **Approval of the minutes for the May 24, 2011 meeting.**

Ms. Eppers requested that in item # 3, *Ms. Morgan* be changed to *Ms. Eppers*. Mr. Hayes requested on the first page, in the absence section, that it state Mr. Paul Taylor was absent *with* notification instead of *without* notification. Ms. Eppers moved to approve the minutes of the May 24, 2011 meeting with the requested amendments. Mr. Pellish seconded the motion which carried unanimously.

4. **Citizens Communication:** None.

5. **Request for postponement.**

Ms. Brockman presented a request sent to staff via e-mail from Mr. Herb Jonkers requesting postponement of item #10, Highland Farms Concept Plan, until July 12, 2011. The postponement was granted.

6. **Request by Angela and Tim Bell for a waiver from the Subdivision Regulations Section 20.201 (A) (2) requiring upgrades to a 50 foot access easement when there are 6 or more lots.**

Ms. Brockman reported that it had been brought to staff's attention that the placard was not properly posted on the property. She stated that the applicant verified that the sign did fall frequently. Ms. Brockman notified the applicant that the Planning Commission would

determine whether the posting requirements had been met adequately. Ms. Grove detailed the Planning Commission options of action. Mr. Hayes asked the applicant if she would be agreeable to a postponement for 2 weeks until the June 28, 2011 meeting. Ms. Angela Bell requested a postponement to allow for the site to be properly posted. Both item #6 and #7 were postponed until June 28, 2011.

7. **Request by Angela and Tim Bell for an appeal of a staff determination that a proposed subdivision is classified as a major subdivision, pursuant to Section 20.201 of the Subdivision Regulations. This property is located at 76 Bellview Lane and is designated as Tax District: Kabletown, Map: 28, Parcel: 11.2.**

This item was postponed until June 28, 2011 for reasons outlined under item #6.

8. **Request by Jefferson Reality, LLC for a waiver from Subdivision Regulations Section 22.208(A) requiring that sidewalks be required in the platted street right of way. This property is located at 4843 Middleway Pike and is designated as Tax District: Middleway, Map: 19A, Parcel: 14.**

Mr. Rivard reviewed the waiver application and presented the staff report recommending denial. There was discussion regarding the placement of and necessity of a sidewalk on that property. Mr. Rivard clarified that the area may become a more foot-traveled community in the future and that the sidewalk is a part of the long range plan for that area.

Mr. Tony Colandrea, of Jefferson Reality, LLC, stated that the Department of Highways (DOH) would not permit a sidewalk in the platted street right of way. He reported that the DOH requested that he remove the asphalt and grass in the area that the Subdivision and Land Development Regulations require a sidewalk.

Mr. Hayes opened the public hearing. Mr. Paul Rosa, citizen, voiced support of the waiver. Mr. Burns moved to close the public hearing. Mr. Dailey seconded the motion which carried unanimously.

Mr. Hayes reviewed the four criteria necessary for granting a waiver. Mr. Burns suggested granting the waiver with the condition that a sidewalk easement would be required and that the sidewalk would be installed when adjoining properties installed sidewalks.

Mr. Dailey moved to grant the variance because it meets the four necessary criteria as outlined in Division 24.300 of the Subdivision and Land Development Regulations. Mr. Pellish seconded the motion. Discussion ensued.

Mr. Baty moved to amend the motion to grant the waiver with the provision that a 4 foot sidewalk of asphalt cut from the existing asphalt and sidewalk easement remain as part of the 15 foot parking setback. Mr. Burns seconded the motion. Discussion of the amendment followed. The motion failed 1 for (Mr. Baty) and 7 against.

Ms. Eters moved to amend the motion to require a 4 foot easement at the right of way within the 15 foot parking setback. Mr. Burns seconded the motion. Mr. Saunders asked that the

easement be 10 foot as previously requested from other projects. Ms. Ethers and Mr. Burns withdrew the motion on Engineering's request.

Ms. Ethers moved to amend the motion to require a 10 foot public access easement at the right of way within the 15 foot parking setback. Mr. Burns seconded the motion which carried 7 for and 1 against (Mr. Dailey).

Mr. Hayes reiterated the main motion with the approved amendment and called the question. The motion to grant the waiver with the condition of requiring a 10 foot public access easement at the right of way within the 15 foot parking setback carried unanimously.

9. **Public Hearing for Zoning Map Amendment (Rezoning) for property designated as Tax District: Harpers Ferry, Map: 9, Parcel: 37 and 37.2. This property is currently zoned Residential Growth and is requesting a Residential/Light Industrial/Commercial zoning. The property is located at the intersection of Rt. 340 and Bakerton Rd. and is a total of 9.676 acres. The Shenandoah Professional Center, LLC is the owner.**

Mr. Paul Rosa, on behalf of the Harpers Ferry Conservancy, asked for a procedural objection and reported that there were no signs posted on the property. He stated that he felt this item had an impact on public policy and plans and requested that this item be postponed so that proper posting could occur. Staff notified the Planning Commission that the posting of a property in a rezoning request was a courtesy notification that staff requested and not a requirement within any of the regulations. Ms. Brockman stated that letters to adjoining property owners had also been sent as a courtesy. The hearing proceeded.

Mr. Rivard described the property and the land use of the surrounding properties. He presented his staff report and recommended that the rezoning request be sent to the County Commission with a recommendation of denial or that the applicant wait 12 months until the completion of the US 340 East Corridor Study. He also suggested that the applicant could apply for a Conditional Use Permit.

Mr. Matt Powell, representing the Shenandoah Professional Center, LLC, declared that the signs had been posted on the property. He distributed a binder of supporting information to each Planning Commissioner in regards to the rezoning request. Mr. Powell described the property and the applicant's reason for the request. He rebutted the recommendations of the staff report.

Ms. Trish Sanderson, of the Shenandoah Professional Center, LLC, described the advantages of the property having a designation of Residential/Light Industrial/Commercial (R/L/C) as opposed to Residential Growth.

Mr. Paul Rosa, of the Harpers Ferry Conservancy, concurred with the staff recommendations. He stated he did not feel that the request was compatible with the Comprehensive Plan. He stated that the designation of R/L/C allows for a broad spectrum of businesses that may not be a benefit to the community. He spoke of the School House Ridge and Bolivar Heights Civil War battle that occurred on this property and encouraged the preservation of that land.

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Mr. Al Alsdorf, Harpers Ferry businessman, stated that he owns a bed and breakfast that relies on tourism and he recommended denial of the rezoning request due to the history of the land.

Ms. Barbara Humes, Harpers Ferry resident, concurred with the staff recommendation and supported the decision to wait to rezone the land until after the completion of the US 340 study.

Mr. Burns moved to take a 5 minute recess. Mr. Pellish seconded the motion which carried unanimously. Meeting was called to recess at 9:46 PM. Mr. Hayes called the meeting to order at 9:52 PM.

Mr. Gary Dungan, Harpers Ferry resident, stated that developing the land would adversely affect the economic impact of the battlefield.

Ms. Suzanne Malesic, member of the Citizen's Action Committee for the US 340 East Gateway Plan, described the US 340 project and recommended that the rezoning request wait until the completion of the study.

Mr. Scott Faulkner, resident of Bolivar Heights and a Trustee for the Journey through Hallowed Ground Partnership, concurred with staff and cited statistics of currently undeveloped commercial areas in Jefferson County.

Mr. John Maxey, Harpers Ferry resident, agreed with staff that rezoning the parcel was not consistent with the Comprehensive Plan and recommended that the applicant to wait to request a zoning map amendment until after the completion of the US 340 study. Mr. Maxey suggested that the applicant should apply for a Conditional Use Permit.

Mr. Matt Knott, owner of River Riders, supported the rezoning request and stated that most of the property surrounding the land is being used commercially. He stated that he feels that the process of a site plan review through the Planning and Zoning Department has built-in safety measures that would not allow inappropriate development in the area.

Ms. Jennifer Syron, Jefferson County resident, concurred with the recommendation to wait until the completion of the US 340 study.

Mr. Ed Burns moved to close the public hearing. Mr. Dailey seconded the motion which carried unanimously.

Ms. Etters moved to recommend to the County Commission that the Planning Commission finds the rezoning request is not consistent with the Comprehensive Plan because of the many different uses of the requested Residential/Light Industrial/Commercial zoning classification. Mr. Baty seconded the motion which carried unanimously. Discussion ensued regarding the request's consistency with the Comprehensive Plan. Mr. Burns called the question. The motion carried 5 for and 3 against (Mr. Pellish, Mr. Dailey and Mr. Smith).

10. **Concept Plan Review for Highland Farms (PC File #11-02). This property is located on Charles Town Road (Rt. 9) on the west side of Bloomery Bridge. This project consists of a residential subdivision to include a total of 27 residential lots and a residue parcel on 270.18 acres located in Tax District: Charles Town; Tax Map: 19, Tax Parcel: 33, 38 and 41.**

This item has been postponed to the July 12, 2011 meeting.

11. **Presentation on the request being made by David and Catherine Hott for a zoning map amendment and request to the Planning Commission to schedule a public hearing within 60 days. This property is currently zoned rural and is requesting a Residential/Light Industrial/Commercial zoning. This property is adjacent to both the existing Route 9 and the Route 9 currently under construction. District: Harpers Ferry, Map: 15, Parcel: 47 and 46.**

Ms. Brockman presented the request for a Public Hearing for a zoning map amendment on behalf of David and Catherine Hott. There was discussion regarding meeting dates that would occur before the 60 day deadline. Mr. Hayes called for a 2nd meeting in July to be held July 26, 2011.

Mr. Burns moved to hold a public hearing within 60 days on July 26, 2011. Mr. Pellish seconded a motion which carried unanimously.

Mr. John Maxey approached the Planning Commission and recommended that staff speak to the applicant to review the Conditional Use Permit process as an alternative to a zoning map amendment.

12. **Discussion and possible scheduling of Public Hearing for Updated Proposed Text Amendment for Sections of Article 24 of the Jefferson County Subdivision Regulations regarding timeframes and noticing requirements for processing procedures.**

This item was postponed to the June 28, 2011 meeting.

13. **Discussion and possible scheduling of Public Hearing for proposed Zoning Text Amendment to Article 12 of the Jefferson County Zoning and Land Development Ordinance.**

This item was postponed to the June 28, 2011 meeting.

14. **Director's Report.**

Ms. Brockman reminded the Planning Commission that the 2012 Fiscal Year Work Plan was provided in the agenda packet and that the tentative agenda for the US 340 Corridor East Gateway Plan Visioning Meeting was placed at their seats before the meeting.

15. **County Commission Liaison Report.**

16. **Planning Commission Exchange.** None.

17. **President's Report.**

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Mr. Hayes stated there may be time limits imposed on comments in future meetings. Mr. Baty asked that there be no additional information provided by the applicant the night of the meeting.

18. **Actionable Correspondence.** None.

19. **Non-Actionable Correspondence.** None.

20. **Reports from Legal Counsel and legal advice to PC.**

Mr. Smith moved to go into an executive session regarding pending litigation. Mr. Burns seconded the motion which carried unanimously. The executive session began at 10:56 PM.

The executive session ended at 11:28 PM.

The meeting was adjourned at 11:30 PM. An audio recording and a video recording of the meeting may be found on our website. These minutes were prepared by Amy Puetz, Planning Clerk.