

MINUTES  
JEFFERSON COUNTY PLANNING COMMISSION  
JULY 26, 2011

The Jefferson County Planning Commission met on Tuesday, July 26, 2011, with the following Commission members present: Daniel Hayes, President; Morgan Eters, Secretary; Gene Taylor, Kelly Baty, Ed Burns, Eric Smith, and Walt Pellish. Staff members present included Jennifer Brockman, Director of Planning and Zoning; Seth Rivard, Planner; Jonathon Saunders, County Engineer; Stephanie Grove, Assistant Prosecuting Attorney; and Amy Puetz, Planning Clerk.

Mr. Arnold Dailey and Mr. Paul Taylor were absent with notification.

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

1. **Approval of the minutes for the July 12, 2011 meeting.**

Mr. Pellish moved to approved the July 12, 2011 Planning Commission Meeting minutes. Mr. Burns seconded the motion which carried 5 for and 1 abstention (Mr. Baty).

2. **Citizens Communication:** None.

3. **Request for postponement:** None.

4. **Old Business**

- **Report back to the Planning Commission regarding the Hott property processing options.**

Ms. Brockman reported that staff had held a meeting with applicants for the Hott property rezoning request to discuss processing options of Rezoning versus a Conditional Use Permit (CUP). She notified the Planning Commission that the applicants had chosen to continue with the rezoning process and not process as a CUP.

5. **Declaration of Violation for Robert Schelin of the Jefferson County Improvement Location Permit Ordinance for no Improvement Location Permit for a shed on property designated as Parcel 40 on Tax Map 7 in the Shepherdstown District as found in Deed Book 826 at Page 676.**

Mason Carter, Ordinance Compliance Officer, requested a declaration of violation for Robert Schelin for a violation of a shed built on the property without a permit. Mr. Carter presented photographs as support for his request. Mr. Burns moved to declare a violation against Robert Schelin. Mr. Pellish seconded the motion which carried unanimously.

Mr. Hayes called to hear agenda item #7 before agenda item #6.

7. **Discussion and possible vote on Amendments to Articles 4A and Section 2.2 of the Zoning and Land Development Ordinance and Section 20.203 of the Subdivision and Land Development Regulations, regarding Home Occupations and Cottage Industries.**

Mr. Barney reviewed the comments made at the June 28, 2011 Planning Commission Meeting when a public hearing regarding these amendments was held. Mr. Barney presented a chart of 8 issues with the amendments describing the current language in the ordinance, the

public comment that was made, and staff's recommendation of changes that could be made to satisfy those requests:

- Comment #1: In Section 4A.5.1.2, a WV Department of Highways (WVDOH) Highway Entrance Permit is required with plan submittal. Public comment addressed the concern that the WVDOH did not have different requirements for small home businesses and large commercial businesses. Mr. Barney reported that staff feels that the intent of this section was to address whether or not an existing or proposed access to a state road was permitted and that the entrance permit should be for the residential use, not the business use.
  - Mr. Pellish moved to strike Section 4A.5.i.2 completely from the amendments. Mr. Burns seconded the motion which carried unanimously.
- Comment #2: Section 4A.5.e allowed no more than twelve business-related vehicle visits per day and no more than sixty visits per week. Public comment requested that the weekly number of vehicle visits be maintained while the daily visits be more flexible. Mr. Barney suggested revising the section to increase the limit of the Cottage Industry to 15 visits per day and the Home Occupation Level 2 (Section 4A.4.e) to 5 visits per day provided that the weekly limit would not be exceeded.
  - Mr. Smith moved that 4A.4.e and 4A.5.e be amended as suggested by staff. Mr. Pellish seconded the motion that carried 6 for and 1 opposed (Mr. Baty).
- Comment #3: Section 4A.6 stated "It is the responsibility of an applicant for a proposed Cottage Industry or Home Occupation to research any private agreements relation to the subject property, contact the Homeowner's Association (HOA), or seek the advice of a surveyor, engineer or attorney. Public comment requested that the County require written approval from each HOA board prior to review of a Cottage Industry or Home Occupation application. Mr. Barney reported that the Jefferson County legal counsel had advised that HOA approval could not be used as a condition of County approval and that no change would be recommended.
  - No change was made by the Planning Commission.
- Comment #4: Public comment addressed public notification of a Home Occupation or Cottage Industry application. A request was made at the June 28, 2011 meeting that the property be posted with a placard for 30 days prior to approval to allow neighbors to appeal the request. Mr. Barney explained that a 30 day posting requirement would significantly delay a Zoning Certificate process and that staff was unsure how the appeal process would function as the appeal would have to be based on whether or not the land use meets the requirements of the Zoning Ordinance and not just personal issues or preferences. Mr. Barney did suggest that if the Planning Commission does provide an amendment to require posting for a Zoning Certificate, that the posting be limited to 14 days not 30 days.
  - No change was made by the Planning Commission.

- Comment #5: Section 4A.5.j explained that a site plan is required if the combined gross floor area of a new building, an addition, and/or an existing accessory structure to be used as a Cottage Industry exceeds 1,500 square feet but is less than 3,000 square feet. Public comment requested that the square footage to trigger a site plan be increased to 3,000 or 5,000 square feet. Mr. Barney replied that any other non-residential development (other than a Cottage Industry) requires a site plan at 250 square feet and he recommended no change.
  - No change was made by the Planning Commission.
- Comment #6: Sections 4A.3.e, 4A.4.e and 4A.5.e detail the amount of traffic visits allowed for each level of Home Occupations and for Cottage Industry. Public comment asked that a clause be added to allow more traffic during an open house event such as an art studio tour. Mr. Barney stated that staff believes that the existing language is adequate as Section 4A.2, Exempt Activities, explains that participation in an event conducted yearly or twice-yearly with multiple locations do not constitute a Home Occupation or Cottage Industry and do not require a Zoning Certificate. Mr. Barney recommended no change although he did state that if the Planning Commission would opt to make this change, that Section 4A.2(3) have language added that states, “Such an event need not comply with the vehicular trip limits established by this article”.
  - Mr. Burns moved to add the staff recommended comment to Section 4A.2(3). Mr. Pellish seconded the motion. Discussion ensued regarding if the added language would benefit the amendment or cause confusion. The motion failed 0 for, 5 opposed, 2 abstention (Mr. G. Taylor and Mr. Burns).
- Comment #7: Section 4A.1.g explained that no outdoor storage of any kind is permitted. Public comment requested that outdoor storage be allowed. Mr. Barney explained that since the intent of the requirement was to preserve the residential appearance of the property that staff would be comfortable amending the section to read, “No outdoor storage of any kind, *visible from a public or private right-of-way or vehicular access easement*, is permitted”.
  - Mr. Smith moved to accept staff recommended language. Mr. Burns seconded the motion. Mr. Hayes offered a friendly amendment to add the words *property line* after the word right-of-way. Mr. Burns and Mr. Smith accepted the friendly amendment. The motion passed 6 for and 1 opposed (Mr. Baty).
- Comment #8: Section 4A.5.l discussed a setback of 25 feet for accessory structures used for a Cottage Industry. Public comment suggested that the setbacks should be consistent with the standard zoning district setbacks of the Zoning Ordinance. Mr. Barney reasoned that an accessory structure for a Cottage Industry may generate greater noise than an accessory structure used for residential purposes and therefore, a greater setback should apply. He recommended no change to the amendment.
  - No change was made by the Planning Commission.

Mr. Smith moved to accept the amendments with the above approved changes to send to the County Commission. Mr. Pellish seconded the motion which carried 6 for and 1 opposed (Mr. Baty).

**6. Discussion and possible vote on Proposed Text Amendment to Section 20.203 Minor Site Development, Section 20.204 Major Site Development, and Division 26.200 Definition of Terms, regarding the maximum square footage requirements for a Minor Site Plan in each Zoning District.**

Mr. Rivard explained the changes made to the amendments as a result of discussions by the subcommittee and public comment. He clarified that Section 20.203.2 was amended to state "*Section 20.203, Sub-Sections (1) and (3) do not apply to this provision*" and that the definitions for section B of both definitions of Minor Site Plan and Site Plan, Minor were amended to state "*Sub-Sections A and C of this definition do not apply to this provision*".

Ms. Eppers moved to recommend to the County Commission the amendments dated July 25, 2011 as written. Mr. Smith seconded the motion which carried unanimously.

**8. Public Workshop regarding the Urban Tree Canopy Plans and Goals for Jefferson County.**

Ms. Brockman introduced Ms. Dawn Childs, Planning and Zoning Office Manager. She also introduced Doug Griffith, Intern tasked with drafting the Urban Tree Canopy Plans and Goals.

Ms. Brockman described the Urban Tree Canopy Plans and Goals project and the next steps in the process of approving the document. She reported that the Water Advisory Committee requested that the public workshop be left open for a week to allow for written public comment. Mr. Hayes agreed to leave the public workshop open to public comment until August 5, 2011 for discussion at the August 9, 2011 Planning Commission meeting.

Mr. Burns requested that staff write a letter of thanks to Doug Griffith so that he can include that with his resume.

**9. Discussion of Planning Commission Bylaws.**

Ms. Brockman suggested that this item be postponed since staff had not had the opportunity to discuss this issue with Mr. Stephan Groh, Assistant Prosecuting Attorney. Mr. Pellish distributed his comments regarding allowing a Planning Commissioner to vote via phone. Mr. Hayes rescheduled this discussion to the September 13, 2011 Planning Commission meeting.

Mr. Hayes called for a break at 9:02 PM. Mr. Hayes called the meeting to order at 9:07 PM.

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

Mr. Smith moved to go into executive session to discuss legal matters. Mr. Burns seconded the motion which carried unanimously. The executive session began at 9:09 PM.

Mr. Burns moved to come out of executive session. Mr. Smith seconded the motion which carried unanimously. Regular session resumed at 9:18 PM.

Mr. Burns moved to proceed with the order as presented by Counsel in executive session and to authorize Mr. Hayes as President to sign the order. Ms. Ethers seconded the motion which carried unanimously.

**11. Director's Report.**

Ms. Brockman presented the 4<sup>th</sup> quarterly report and explained the history behind the reason for these reports.

Ms. Brockman discussed upcoming amendments to the Zoning Ordinance and the priority in which staff suggested they be handled. Mr. Hayes suggested moving forward with amendments for a recreational overlay district along the Shenandoah and Potomac Rivers with provisions for camping, river access points, and other tourist features. Mr. Hayes also supported initiating an amendment which would create new zoning categories.

Ms. Brockman reported that a list of upcoming Subdivision Regulation Amendments was being compiled. Mr. Hayes asked that the list be presented at the September 13, 2011 Planning Commission meeting.

**12. County Commission Liaison Report.** None.

**13. Planning Commission Exchange.** Mr. Baty reported on the recent Water Advisory Committee meeting.

**14. President's Report.** None.

**15. Actionable Correspondence.** None.

**16. Non-Actionable Correspondence.** None.

Mr. Burns moved to adjourn the meeting at 9:47 PM. Mr. Smith seconded the motion which carried unanimously. 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.