

MINUTES
JEFFERSON COUNTY PLANNING COMMISSION
AUGUST 9, 2011

The Jefferson County Planning Commission met on Tuesday, August 9, 2011, with the following Commission members present: Daniel Hayes, President; Morgan Etters, Secretary; Gene Taylor, Kelly Baty, Ed Burns, Eric Smith, Paul Taylor and Walt Pellish. Staff members present included Jennifer Brockman, Director of Planning and Zoning; Seth Rivard, Planner; Steve Barney, Zoning Administrator; Jonathon Saunders, County Engineer; Stephen Groh, Assistant Prosecuting Attorney; and Amy Puetz, Planning Clerk.

Mr. Arnold Dailey was absent with notification.

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

1. **Approval of the minutes for the July 26, 2011 meeting.**

Ms. Etters moved to approve the minutes of the July 26, 2011 Planning Commission meeting. Mr. Pellish seconded the motion which carried 5 for and 1 abstention (Mr. P. Taylor).

2. **Citizens Communication:** None.

3. **Request for postponement:** Ms. Brockman requested that the discussion of the Urban Tree Canopy Goals be postponed due to the fullness of the agenda. Mr. Hayes agreed and postponed the Urban Tree Canopy discussion to the September 13, 2011 Planning Commission meeting.

Mr. Baty entered the room at 7:03 PM.

4. **Public Hearing for Zoning Map Amendment (Rezoning) for property designated as Tax District: Harpers Ferry, Map: 15, portions of Parcels: 47 and 56. This property is currently zoned Rural and Residential/Light Industrial/Commercial zoning is being requested. The property is adjacent to both the current Route 9 (Charles Town Rd.) and the Route 9 currently under construction and is a total of 42 acres. David and Catherine Hott are the owners.**

Mr. Rivard reviewed the rezoning request for the Planning Commission.

Mr. Mark Dyck, with William H. Gordon Associates representing the applicants, discussed reasons that the applicant was not comfortable pursuing a Conditional Use Permit (CUP) as opposed to a rezoning request as suggested by staff. He commented that the LESA points system hinders a CUP application making it an undesirable process. Mr. Dyck explained that the uses would be limited for the property and would most likely involve service commercial uses such as a gas station or convenience store. He expressed that a 50 foot buffer would be placed between this property and those of a residential use.

Mr. Rivard read from his staff report and recommended approval as a result of staff's finding that the request is consistent with the 2004 Comprehensive Plan and the Blue Ridge

Mountain Communities Area Watershed Common Vision, provided that the conditions proposed by the applicant are inforcable.

Mr. Dyck reviewed several conditions that the applicant had proposed to apply to the property if the rezoning request were to be approved:

- There would be shields on light fixtures to direct light downward. There would be no box lighting on the sides of buildings without louvers to direct light toward the ground. A photometric plan would be submitted at the time of site plan submission showing no greater than 0.5 foot candles at the property line, with the exception of vehicular entry points.
- Low Impact Design (LID) techniques would be used on the site to provide water quality measures, to the extent allowed by Jefferson County. Emphasis would be placed on controlling soil erosion and establishing a vegetative cover that would reduce erosion potential.
- There would be tree canopy coverage of 20% of the entire property which would include existing trees and new trees planted with future site plan submittals.
- Tree preservation areas would be a minimum of 20 feet in width to maintain canopy areas and would be identified on all future site plans.
- Parking lot screening with vegetation at a minimum of 2 feet or taller would be provided between the road and parking locations.
- Not more than 40% of any structure would be comprised of metal siding, concrete panels, split face block, EFIS or vinyl on the on the front and sides of a structure. Use of concrete block would not be permitted on the front and sides of a structure. Use of concrete panels, split face block, EFIS, vinyl or use of concrete block would be allowed on the rear of a building, only as long as the rear is not visible from a street/road or right of way. Use of brick, stone, fiber cement siding, wood and stucco would not have any limitations.
- Entrances to buildings shall front the street to which the building is oriented.
- Dumpster enclosures shall match buildings in color and like material.
- Outdoor storage areas shall be screened from view of all right of ways.
- LED message board signs or streaming signage would be prohibited.
- The only use proposed to be restricted would be residential activity. None of the remaining uses in the district are proposed to be restricted. The applicant has stated that they intend to bring a septic business and related equipment to the rear of the property. The site would be fully screened from Route 9 and adjacent properties.
- The applicant shall abide by the hillside protection/slope requirements found in the Zoning Ordinance and Subdivision Regulations.

There was discussion as to whether or not the conditions would be legally binding. Mr. Groh stated he was unsure if the applicant would be legally bound to adhere to the conditions. Mr. Dyck stated that the applicant would be willing to list the conditions within the merger deed so that the conditions would be recorded in the County Clerk's office. Mr. Groh questioned when the merger deed would be submitted.

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Mr. Hayes opened the public hearing. Mr. John Maxey, Harpers Ferry resident, expressed that a CUP would be a more appropriate process. He stated that if the attorney found issue with the enforceability of the voluntary conditions, that he would personally go before the County Commission to request a refund of the applicant's filing fee so that a CUP process could be pursued.

Ms. Donna Piper, Blue Ridge resident, commented that she would like to see good development on this site and raised concern of what specifically would be built there.

Ms. Betsy Kravitz, Blue Ridge resident, stated that she was glad that there would be a buffer and questioned the contents of that buffer. She also commented that she would want to stay informed throughout the process of the development of the property. Ms. Brockman explained the public workshop phase of a concept plan.

Mr. Dale Manuel, County Commissioner and former member of the WV House, explained the history of violations on the property. He requested that Mr. Groh ensure that the conditions are legally binding.

Ms. Violet Jenkins, Blue Ridge resident, expressed concerns regarding tree clearing. She also stated that she did not want to see "row houses" on the property.

Ms. Lynn Widmeyer, County Commissioner speaking as a professional planner and county resident, commented that she feels that conditional rezoning is a legally troublesome approach. She stated that she would like to see a restriction of square footage of commercial building in relation to the acreage. She raised concerns of stormwater management and traffic issues. Ms. Widmeyer commented that the buffer area was too small.

Mr. Charles Manuel, Blue Ridge resident, stated that he lived close to the property and was also concerned that past violations would continue. He asked that staff monitor the property closely. He commented that applying conditions or exceptions to a rezoning defy the Zoning Ordinance.

Mr. Gerald Jenkins, Blue Ridge resident, stated he wanted to ensure good development on the property and reiterated concerns regarding violations that had occurred on the property in the past.

Mr. Hayes closed the public hearing.

Ms. Etters questioned if presenting the agreed upon conditions as deed restrictions would make those conditions legally binding. Discussion ensued regarding how to make the conditions agreed to by the applicant enforceable.

Mr. Baty expressed concern regarding the stability of building on the property due to the degree of slope present and the lack of studies done to ensure the stability of the land. He voiced that he was uncomfortable with the rezoning.

Discussion ensued regarding the ability to build out the property given the slope of the land. Mr. Dyck responded that he felt the property could be properly developed with the given slope.

Mr. Hayes asked what stormwater management techniques would be used. Mr. Dyck responded that low impact techniques would be used as well as a stormwater management pond.

Mr. Burns asked for advice on the best way to legally proceed. Mr. Groh explained that any vote that would be made would be only a recommendation to the County Commission, who would be the deciding body for the rezoning request. He clarified that the County Commission could also impose more conditions as that body deemed fit.

Mr. Pellish moved to recommend approval of the request to rezone the property to the County Commission with the staff recommended motion as amended to include the fifteen (15) discussed conditions because the request is in conformance with the Comprehensive Plan. Mr. Burns seconded the motion which carried 6 for and 1 opposed (Mr. Baty).

- 5. Concept Plan Review for Harvest Pointe Community Church (PC File #S11-02). This property is located on the north side of WV Route 51 approximately 4 miles west of Charles Town. This project consists of a 48,918 sq. ft. of total floor area in 5 phases including a picnic pavilion, recreation areas, a chapel, a prayer garden, and a fountain in the outdoor area. The indoor area is proposed to consist of a worship area, classrooms and a nursery, a large gathering area, a coffee bar and café area, and administrative offices with conference rooms. The property is located in Tax District: Middleway; Tax Map: 20 Tax Parcel: 7.13.**

Mr. Rick Thurman, representative of Harvest Pointe Community Church, gave an overview of the project. He stated that the rural character of the area would be maintained with the planned exterior design. Mr. Thurman reported that the project may be done in 5 stages.

Mr. Rivard read from his staff report stating that staff found the Concept Plan to be complete. He informed the Planning Commission that there had been comments submitted by neighbors communicating displeasure with the church using Rose Hill Drive as the access for the project and some neighbors have stated a preference for a separate access to Route 51 and a secondary access via Hartack Lane. He relayed that staff had some concerns regarding the installation of another access onto Route 51. Mr. Rivard stated that even though this lot is a part of the Rose Hill Subdivision, the single family restriction note was not applied to this lot at the time of recordation.

Mr. Hayes opened the public hearing. Mr. Steven Guier and family, adjoining neighbors, raised concern that since the subdivision uses wells as its water source, that the populace of church members exceeds the anticipated well water use if compared to the single family home, which neighbors expected to be placed on that lot. He reported that, in his original research of the church's website, an 11,000 square foot structure was being proposed. Later, at a meeting between the developers and the neighbors, Mr. Guier stated that the applicant revealed that a structure just less than 22,000 square feet would be proposed and now a plan

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for a 50,000 square foot building was being presented. Mr. Guier requested that there to be a full Environmental Protection Agency study done which would include a watershed and ground water report. He noted that the exterior lighting should have hoods directing the light downward and that the basketball and soccer courts should be moved to the opposite side of the lot away from his property. He requested that the Planning Commission require a buffer between his property and the church's property be provided, that all parking lots be centralized, that the noise ordinance be observed and enforced, and that all lights be turned off at a decent time. He asked that there be ongoing communications between the developers and the Rose Hill residents as to the progress of the project.

Mr. Marvin Smith, Rose Hill resident, raised the concern that traffic safety would be an issue if Rose Hill Drive were to be used as an access due to a knoll on Route 51 that would impair sight distance. He also stated that he would not want the view of the night sky disrupted by lighting at the church.

Mr. Will Liston, Rose Hill resident, reiterated traffic safety concerns and noted his disappointment that the lot would not be a residential use. He inquired as to whether the café that was being proposed would be a commercial use or used strictly for the attendees of the church. The applicant confirmed that the café would be for church use only and not for food purchases by the general public. Mr. Liston also reported concerns regarding well water.

Ms. Natasha Sievec, church patron, stated that the church is an asset to the community and voiced support of the project.

Ms. Edie Bell, church member, stated that the church wants to help the community. She invited Rose Hill Subdivision residents to use the church facilities. Ms. Bell described the growth of the church and the need for more space.

Mr. Hayes closed the public hearing. Discussion ensued. Mr. Thurman addressed some of the public comment and discussed possible options to alleviate some concerns.

Mr. Burns moved to approve the Concept Plan with the staff recommended motion. Mr. Taylor seconded the motion.

Mr. Baty moved to amend the motion to include that:

- 1) The recreational facilities are moved away from Mr. Guier's property;
- 2) The lights on the property are equipped with hoods;
- 3) The applicant work with staff to provide an appropriate buffer to the Guier property;
- 4) Periodic meetings between the developer and area residents are called to inform residents of progress of the project.

Ms. Etters seconded the amendment to the motion, which carried unanimously.

Mr. Hayes called the question of the main motion, which carried unanimously.

Mr. Hayes called for a break at 9:24 PM. Mr. Hayes called the meeting back to order at 9:28 PM.

6. **Concept Plan Review for Jefferson Asphalt Products (PC File #S11-12). This property is located at 9390 Middleway Pike on WV Route 51 near Tuscawilla Hills. This project consists of a 60 ft. by 70 ft. single story office building and a 60 ft. by 100 ft. maintenance shop. The property is located in Tax District: Charles Town; Tax Map: 13 Tax Parcel: 7.**

Mr. Dirk Stansbury of D.A. Stansbury Engineering gave a brief overview of the project and stated that it would be done in two phases.

Mr. Rivard read from his staff report and stated that staff had found the Concept Plan complete.

Mr. Hayes opened the public hearing. There was no public comment. Mr. Hayes closed the public hearing.

Mr. Burns moved to approve the Concept Plan with the staff recommended motion. Mr. G. Taylor seconded the motion, which carried unanimously.

7. **Concept Plan Review for Verizon Wireless - Leetown (PC File #S11-13). This property is located at 6000 Paynes Ford Road, Kearneysville. This project consists of a proposed telecommunication facility that will consist of a 100 ft. by 100 ft. leased area, within which a 50 ft. by 50 ft. compound consisting of a 120 ft. silo structure, a 12 ft. by 30 ft. equipment shelter, an electrical backboard, and a mesa cabinet will be installed. The property is located in Tax District: Middleway; Tax Map: 7 Tax Parcel: 6.**

Mr. Harold Bernadzikowski, agent for Verizon Wireless, explained the cell tower facilities proposal.

Mr. Barney read from his staff report and stated that staff finds that the communications tower meets the criteria of the Jefferson County Zoning Ordinance and is consistent with the 2004 Comprehensive Plan.

Mr. Hayes opened the public workshop. There was no public comment. Mr. Hayes closed the public workshop.

Mr. Smith entered the room at 9:45 PM.

Mr. Burns moved to accept the Concept Plan with the staff recommended motion. Mr. Pellish seconded the motion which carried unanimously.

8. **Urban Tree Canopy Goals Public Comment Discussion and Possible Vote.**
This discussion was postponed to the September 13, 2011 Planning Commission meeting.
9. **Reports from Legal Counsel and legal advice to PC.**

Mr. Groh stated that he would probably have an update on legal action regarding Far Away Farms at the next Planning Commission meeting.

10. Director's Report.

Ms. Brockman discussed agenda items for upcoming Planning Commission meetings. She reported that on Saturday, September 17, 2011 the next US 340 Corridor Plan Public meeting would be conducted at 10 AM in the library meeting room.

11. County Commission Liaison Report. None.

12. 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.** Mr. Pellish stated that he would continue to encourage interaction between the Development Authority and the Planning Commission. He suggested that a joint meeting between the two bodies would be advisable.
- **Report from the Water Advisory Committee Meeting Liaison.** None.

13. President's Report. None.

14. Actionable Correspondence. None.

15. Non-Actionable Correspondence. None.

Mr. Smith moved to adjourn the meeting at 9:57 PM. Mr. G. Taylor 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.