

Jefferson County Planning Commission
January 14, 2014

The Jefferson County Planning Commission met on January 14, 2014, with the following Commission members present: Stephen Stolipher, President; Daniel Hayes, Vice President; Gene Taylor, Secretary; Walt Pellish, Paul Taylor, Bill McLeod, Wade Louthan, Gary Phalen and Darlene Truman. Staff members present included Seth Rivard, County Planner; Jonathan Saunders, County Engineer; Stephen Groh, Assistant County Prosecuting Attorney; and Alexandra Beaulieu, Planning Clerk.

Mr. P. Taylor called the meeting to order at 7:04 PM.

Mr. Pellish stated he would no longer be serving as the County Commission liaison and welcomed Commissioner Dale Manuel, who would fulfill the role beginning in February.

1. Election of Officers.

Mr. P. Taylor stated he was not inclined to retain the position as President. He opened the floor for nominations.

Mr. Hayes nominated Mr. Stolipher for President. Mr. Pellish seconded the motion, which carried unanimously.

Mr. Stolipher nominated Mr. Hayes for Vice President. Mr. P. Taylor seconded the motion, which carried unanimously.

Mr. Stolipher nominated Mr. G. Taylor for Secretary. Mr. Hayes seconded the motion, which carried unanimously.

2. Approval of the minutes from the November 12, 2013 Planning Commission Meeting.

Mr. Hayes motioned to approve the minutes. Mr. Louthan seconded the motion, which carried unanimously.

3. Citizen Communications. None.

4. Request for postponement. None.

5. *Rescheduled due to inclement weather from 12-10-13*: Public Hearing: Concept Plan Review for applicant Verizon Wireless (PC File #S13-05). This property is located at 231 Trough Road in Shepherdstown. This project consists of constructing a 130' Stealth Silo telecommunications tower. The property is located in Tax District: Shepherdstown (09); Tax Map: 17; Parcel: 11; Size: 123.6 ac.; Zoned: Rural. Property owner: George Randolph Welsh, Jr.

Mr. Rivard provided a PowerPoint presentation reviewing the Verizon Wireless Concept Plan. He stated that the proposed project would consist of the construction of a 130' Stealth Silo Telecommunications Tower. Mr. Rivard stated that staff determined the application to be complete. He noted that the role of the Planning Commission was to review the Concept Plan against the standards of the Subdivision Regulations and provide recommendations when necessary.

Mr. Stolipher invited the applicant to speak. Mr. Peter Chakmakian represented the applicant, Verizon Wireless. Mr. Chakmakian provided an overview of the project and stated that per Section 4B.7, the Concept Plan was complete. Mr. Chakmakian stated the applicant was granted a variance from Section 4B.7.J.2 of the Zoning Ordinance to allow for an additional 10' to the maximum permitted height of 120' for a total of 130'. He stated that the purpose of the request for a 130' silo tower was to allow co-location in the future. Mr. Chakmakian noted that the Concept Plan was found by staff to be complete and consistent with the Comprehensive Plan; therefore, according to State Code, the Planning Commission was required to approve the submitted Concept Plan for Verizon Wireless.

Mr. Rivard stated that at the Concept Plan stage, the Planning Commission has the opportunity to make recommendations, such as landscaping, before it goes to the Site Plan phase.

Mr. Hayes inquired as to the purpose of the 10' landscape buffer condition as requested by staff.

Mr. Rivard stated that should any adjoining property develop, a landscape buffer would mitigate the base equipment.

Mr. Hayes inquired how close to the property line the proposed tower would be.

Mr. Rivard answered that it would be no less than 750 feet, but closer to 1200 feet from the property line.

Mr. Stolipher opened the floor to Public Comment.

Ms. Christina Martinkosky stated for the record that she lived at 5959 Shepherdstown Pike. She described the property as being a 100 acre farm that has been in her family for 11 generations. Ms. Martinkosky submitted a letter from the Civil War Land Trust which requested a balloon test be conducted by the applicant. Ms. Martinkosky expressed concern for the height of the tower as approved by the BZA and stated that 130 feet was unsympathetic to the agricultural landscape and noted that the silo located on her property was only 35 feet.

Mr. Steven Alamar stated for the record that he lived at 77 Cavalier View Court in Shepherdstown and that he was representing the Shepherdstown Battlefield Preservation Association. He stated that the Shepherdstown Battlefield Preservation Association opposed the project because it encroached upon a historic site. He noted that continued expansion of infrastructure in the County without consideration of proximity to historic sites would inevitably lead to future housing development and consequently denigrate the opportunity to generate revenue from historic sites. Mr. Alamar noted that Harpers Ferry National Historic Park generates ten million dollars a year for the County.

Mr. Martin Burke stated for the record that he lived at 1328 Terrapin Neck Road in Shepherdstown. He stated that he was the chairman for the Jefferson County Historic Landmarks Commission (HLC) and that the HLC opposed the project. He noted that Article 4B requires all Cell Towers to come before the HLC for review. Mr. Burke stated that the HLC, in a letter dated December 21, 2011, stated that proposed location was unsuitable and recommended Verizon Wireless consider another location. He stated that the HLC met with Verizon Wireless in April 2012 to discuss alternate locations for the project. Mr. Burke stated that Verizon Wireless did not consider the proposed alternate locations. Mr. Burke requested that if the tower was to remain at the proposed Karen site, the Planning Commission require a reduced height for the tower to mitigate adverse visual effects.

Ms. Katy Fidler stated for the record that she lived at 48 Trough Road in Shepherdstown. She stated that she was in support of the project because she works from home and access to wireless communications is essential. Ms. Fidler stated that her service provider was U.S. Cellular which utilizes Verizon Wireless cell towers. She noted that current service was weak at her residence.

Mr. Stolipher stated that there was no one else signed up to speak.

Mr. Hayes motioned to close public comment. Mr. Gene Taylor seconded the motion, which carried unanimously.

Mr. Stolipher invited the applicant to provide a rebuttal. He stated that the applicant would have ten minutes to speak.

Ms. Diane De Laet with Verizon Wireless stated that they empathized with the historic value of the property which was the reason behind the design for a stealth silo. She noted that in response to Mr.

Burke's concern for location and height of the tower, Verizon Wireless re-located the tower from the original proposed location near the front of Trough Road to the back of the property line. Ms. De Laet added that the relocation of the tower placed it at a lower elevation, which resulted in an increased height to meet the coverage objective and offer co-location opportunities. Ms. De Laet addressed Mr. Alemar's concerns regarding the degradation of economic benefit and stated that reliable cell service would contribute to visitor safety. She stated that reliable service would contribute to the ability for parks and historic sites to provide QR code stations which would allow visitors to scan the code with their phone and obtain the historic information on their mobile device. Ms. De Laet invited Ms. Tara Cubie, Architectural Historian; and Mr. Paul Dugan, an engineer consultant, to address the concerns expressed during the public hearing. Ms. Cubie and Mr. Dugan both provided data in support of the location for the proposed tower.

Mr. Paul Dugan stated that the height of the tower was determined through extensive analysis with consideration to the potential for interference with other telecommunication towers. Mr. Dugan noted that the location and size of the proposed tower would eliminate the need for future construction of cell towers to meet the demands of increased wireless customers. Mr. Dugan also noted that through the analysis, it was concluded that there were no existing towers or structures for co-location opportunities to meet the coverage objective in the proposed area.

Mr. Hayes asked Ms. Martinkosky if she was happy with her cell service at her home.

Ms. Martinkosky stated that she did not have a land line because their cell service is fine.

Mr. Hayes motioned to approve the Concept Plan as presented with no caveats. He stated that there is a large distance between the proposed location and the adjacent property line; therefore, a ten foot landscape buffer would offer no significance.

Mr. Phalen seconded the motion, which carried unanimously.

6. *Rescheduled due to inclement weather from 12-10-13:* Public Hearing: Request by applicant Stanley Dunn (File #PCW13-11) to be represented by Appalachian Surveys, PLLC for a waiver from Section 20.201.A.2 of the Jefferson County Subdivision and Land Development Regulations. Applicant is requesting a waiver from upgrading the existing access easement from 40' to 50' along the frontage of Lot 2 as required in order to create two additional single family lots. The applicant will upgrade the remaining portion of the 40' access easement to the required 50' by creating a 10' easement along the proposed Lot 3. Property owners: Katherine Dunn and Sarah Lowery. Property location: North side of Route 1/5 (North Childs Road) ¼ mile East of Leetown Road intersection. Tax District: Middleway (07); Tax Map: 17; Parcel: 4; Size: 7.485 acres; Zoned: Rural.

Mr. Rivard provided a staff report and PowerPoint presentation. He stated that in 1995, the applicant created two lots and a residue with a 40 foot access easement. Mr. Rivard stated that in 2008, a new set of Subdivision Regulations were adopted which permitted up to four lots and a residue on a 50 foot access easement. Mr. Rivard stated that staff did not recommend granting the waiver as the applicant could not meet "the intent and purpose of [the] Regulations" as outlined within the four criteria required by the Subdivision Regulations.

Mr. Mike Shepp with Appalachian Surveys represented the applicant. Mr. Shepp stated that the original parcel consisted of 13 acres and that it was subdivided in 1995. He noted that road standards in 1995 permitted up to twelve lots on a 40 foot wide right of way. Mr. Shepp added that the Dunn's intent to further subdivide was indicated by the extended length of the easement. Mr. Shepp stated that the request to maintain the easement at the existing width of 40 feet was

only for the portion of the easement extending between the existing lots 1 and 2. neighbors would not agree to the request to widen the 175 foot portion of the easement extending between the existing lots 1 and 2 to 50 feet.

Mr. Hayes motioned to close public comment. Mr. Phalen seconded the motion, which carried unanimously.

Mr. Hayes motioned to approve the waiver as requested. He added that the granting of the waiver applied only to the current proposed subdivision and that any future subdivision would require a new waiver request from Section 20.201.A.2.

Ms. Truman seconded the motion, which carried unanimously.

7. Public Hearing: Proposed text amendment to Section 4.11 of the Zoning and Land Development Ordinance regarding landscaping between similar non-residential uses.

Mr. Rivard reviewed the proposed amendment which recommended a reduction in the amount of screening required in the 10 foot side and rear yard landscape buffers between light industrial and commercial uses when no outdoor storage is proposed or provided. Mr. Rivard stated that the amendment would reduce the requirement for a net result over a 100 foot linear planting from 10 evergreen trees every 10 feet and 20 evergreen shrubs every 5 feet to 4 evergreen or deciduous trees; 4 ornamental trees every 25 feet; and 12 shrubs. He stated that it would be a landscaping between uses rather than a screening.

Mr. Stolipher opened the floor for Public Comment. He noted there was only one person signed up to speak.

Mr. John Reisenweber spoke on behalf of the Jefferson County Development Authority. He submitted a letter for the record in support of the proposed amendment regarding the screening requirement. Mr. Reisenweber noted that if the Coast Guard had been required to meet the current screening requirement, they would have spent an additional \$40,000 on their project. He recommended an additional reduction.

Mr. Hayes motioned to close public comment. Mr. Louthan seconded the motion, which carried unanimously.

Ms. Truman motioned to approve the amendment as recommended by John Reisenweber. Mr. Louthan seconded the motion.

Mr. Hayes made a subsidiary motion to request that the proposed amendment as submitted by John Reisenweber be tabled until the February meeting. Mr. Hayes added that staff should work with the JCDA to prepare a text amendment to incorporate the proposal as presented by the JCDA and also write a text amendment for outdoor storage screening.

Mr. Taylor seconded the subsidiary motion, which carried unanimously.

8. Request to schedule a special called meeting on February 25, 2014 in order to hold a Public Workshop for a Concept Plan Review for applicant River Riders, Inc. (File # S13-07). Proposed Project: to expand existing facility to incorporate an All-Inclusive Family Adventure Resort.

Mr. Hayes motioned to hold the Public Workshop to review the Concept Plan for River Riders, Inc. on the March 11, 2014 Planning Commission meeting date.

Ms. Truman seconded the motion, which carried unanimously.

**Following the meeting, staff determined that the by-laws required the Planning Commission to hold a fourth Tuesday meeting to accommodate review and approval deadlines as set forth in the Subdivision Regulations. Planning Commission President Steve Stolipher scheduled a meeting via email for February 25, 2014 to hold the Public Workshop.*

9. Review and approval of Meeting Schedule for 2014. Please note: the Comprehensive Plan will be submitted to the Planning Commission in May; therefore, it may be necessary to schedule additional meetings during June and July.

Mr. Stolipher stated that additional meetings related to the Comprehensive Plan should be scheduled as needed.

Mr. Hayes motioned to revise the proposed 2014 Meeting Schedule to reflect that the regularly scheduled May 13 and November 11 meetings be rescheduled to May 6 and November 18 in order to accommodate the office closings scheduled for election days.

Ms. Truman seconded the motion, which carried unanimously.

10. Reports from Legal Counsel and legal advice to the Planning Commission.

Active Litigation:

- Far Away Farms

Mr. Groh stated that the Judge determined that the Planning Commission had followed the Open Meetings Act. Mr. Groh stated that his brief would be due in May. He added that hopefully a determination would be made next Fall.

11. Director's Report.

- Update on 2014 Comprehensive Plan.

Mr. Rivard reviewed the Director's Report and updated the Planning Commission on the following items:

- ZTA13-01 – Minor Amendments to the Zoning Ordinance related to Agricultural Use was approved on January 2, 2014.
- ZTA12-01 – Zoning Ordinance Text Amendments related to the creative of New Commercial and Industrial Zoning Categories would go before the County Commission for possible approval on January 16, 2014.
- Zoning Map Amendment request submitted by the Hunter family would go before the County Commission on January 23, 2014 at 6:00 PM.

Mr. Rivard reviewed additional meeting dates relevant to the Planning Commission and Steering Committee.

12. Planning Commission Exchange and Liaison Reports: None.

13. President's Report. None.

14. Actionable Correspondence. None.

15. Non-Actionable Correspondence. None.

16. Signing of approved Motions from previous Planning Commission meetings. None.

Mr. Hayes motioned to adjourn the meeting at 8:47 PM. Mr. Taylor seconded the motion, which carried unanimously.