

**Meeting Minutes**  
**Jefferson County Planning Commission**  
**November 13, 2018**

The Jefferson County Planning Commission met on November 13, 2018 with the following Commission members present: Donnie Fisher, President; Steve Stolipher, Vice President; Wade Louthan, Secretary; Jack Hefestay, Mike Shepp, J Ware and Ray Bruning. Staff members present included Jennifer Brockman, County Planner; Jonathan Saunders, County Engineer; Nathan Cochran, Assistant Prosecuting Attorney; and Rachael Burke, Planning Clerk.

Mr. Ron Thomas and Mr. Peter Onoszko were absent with prior notification.

Mr. Fisher called the meeting to order at 7:03 PM.

1. Before approval of the minutes, Jennie asked Bob Barrick, US340 Mixed Use applicant, to address any concerns the applicant had about the motion as noted in the minutes from the October 9, 2018 last meeting. Mr. Barrick stated that the applicant did not have any objections to the minutes as written regarding the city bus shelter and city street light standards. The minutes from the October 9, 2018 meeting were approved, with the following correction, ‘Mr. Mike Shepp asked if the “applicant”, not the “application”, as it stated under item #4 in the middle of page 2 in the draft minutes.
2. Citizen Communications. None.
3. Request for postponement. None
4. **Public Workshop: Request by applicant/owner R&D Investments, LLC. for approval of a Concept Plan for Pikeview Manor Major Residential Cluster Subdivision (18-16). This subdivision includes 6 lots and a 31 acre green space. The property is designated as Tax District: Shepherdstown (09); Tax Map: 18; Parcel 5. Zoned: Rural; Size: 43.57 acres.**

Ms. Jennifer Brockman provided an overview of the project. She gave an overview of the location and explained that this is a Cluster Subdivision, comprised of 6 lots and the required greenspace. All Cluster Subdivision are required to process via the Major Subdivision Process and the Concept Plan is the first step. She provided a history of the property, explaining that in 1988 this property was 61.92 acres, with the 45 acres remaining processing as a Cluster. The greenspace requirement is based on the 1988 acreage. There are also two waivers related to this subdivision, to be discussed as later agenda items.

Mr. Mike Roberts, representative for the project (Roberts Land Surveying), gave a synopsis of the proposal, stating the 31 acre green space has had many improvements to the early 1800 brick farmhouse, including a new septic. This structure is located in the green space area.

Ms. Jennifer Brockman reviewed outside agency comments. The WV Department of Highways and Jefferson County Health Department do not have any concerns at this time. The Office of GIS need an application requesting approval of the subdivision name and the

road names. Jefferson County Historic Landmarks Commission expressed concerns with a possible slave cemetery and state laws regarding disturbing cemeteries. They would like the applicant to work with them to preserve the cemetery.

Mr. Donnie Fisher opened the floor to Public Comment. He explained the three minute allotted time to speak.

The following speakers made comments regarding concerns with wells, traffic, permanence of green space, and conservation of the historic Hendricks Farm:

Sheryl Weller  
John Dockman  
Everett Zillinger  
Sherry Duncan

Mr. Donnie Fisher closed the floor to Public Comment and asked Ms. Jennifer Brockman to address some of the questions.

Ms. Jennifer Brockman explained the cluster density calculation and the zoning for the property being subdivided. She stated that the required green space in a cluster development is permanent. She also advised that the Health Department will have to approve well and septic locations before the lots can be created.

Mr. Donnie Fisher thanked Ms. Jennifer Brockman for addressing questions.

Mr. Mike Roberts addressed rock cropping location and he explained the lots would be sold individually for spec homes. He also stated there is not a minimum square footage proposed.

Mr. Mike Shepp asked about the driveway entrance permit. Mr. Mike Roberts explained the applicant has received a highway entrance permit for the existing farm house on the greenspace and for the house on the 1.92 acre lot when the Minor Subdivision Plat was processed.

Mr. Wade Louthan asked who approves a bus pull off area and Ms. Jennifer Brockman clarified that the DOH would only designate a turn lane if it is warranted but does not designate bus pull off areas.

Mr. Jack Hefestay asked if Mike Roberts, applicant, is aware of where the cemetery is located. A member of the public offered to assist the applicant in locating it.

Ms. Jennifer Brockman suggesting holding the Public Hearings for the related waivers prior to taking action on this application.

- 5. Public Hearing: Waiver Request for Pikeview Manor Major Subdivision (PCW#18-15). Applicant is requesting a waiver from Section 21.103D of the Subdivision and Land Development Regulations “Access to Existing Roads” which requires all lots to have access via internal subdivision roads. The applicant is requesting a separate entrance to**

**the green space parcel, at its current WVDOH permitted entrance, rather than accessing from the proposed street shown on the cluster plan.**

- 6. Public Hearing: Waiver Request for Pikeview Manor Major Subdivision (PCW#18-16). Applicant is requesting a waiver from Sections 24.113 – 23.115 of the Subdivision and Land Development Regulations that pertains to the Major Subdivision Preliminary Plat Application and Completeness Review, Public Hearing and Approval process. The applicant is requesting to advance to the final plat for purposes of creating the green space parcel only. The applicant will process a full Major Subdivision for the balance of the cluster.**

Ms. Jennifer Brockman explained that both waivers relate to the separate green space parcel. One waiver is requesting that the green space parcel be permitted to continue to utilize its existing driveway rather than requiring it to use the new road for the 6 proposed lots. The other waiver is requesting that the applicant be able to process a plat to divide off the greenspace prior to processing the Major Subdivision for the cluster.

Mr. Donnie Fisher opened the floor to Public Comment.

The following speakers made comments regarding the waivers, location of the graveyard, documentation of changes to the parcel and inquiries regarding division and further subdivision in regard to traffic concerns:

David Hixen  
Sheryl Weller  
Sheryl Duncan

Ms. Jennifer Brockman clarified the request and responded to questions regarding further division of the green space. She noted that the applicant sell the 31 acres, but that it cannot be further divided. Notes are required on the plat which will state this.

Mr. Donnie Fisher closed Public Comment.

Mr. Mike Roberts stated he will make applicant aware of the potential grave site and other items will be addressed at the Final Plat stage. The 31 acre green space will remain in perpetuity.

Mr. Donnie Fisher explained that processing the Cluster development depletes the subdivision rights for the property.

Ms. Jennifer Brockman responded to a question about possible parent-to-child rights within green space and noted that these guidelines will need to be brought to the Planning Commission for direction.

Mr. Donnie Fisher stated he wanted the Planning Commission to take action on the waivers first.

Mr. Steve Stolipher made a motion to approve PCW#18-16 (Agenda Item #6) with the condition that a note be placed on the final plat regarding green space (per staff recommendation). Mr. Jack Hefestay seconded the motion, which carried unanimously.

Mr. Steve Stolipher made a motion to approve PCW#18-15 (Agenda Item #5) with the conditions of that the WV DOH approve both entrances. Mr. Jack Hefestay seconded the motion, which carried unanimously.

Mr. Steve Stolipher made a motion to accept the Pikeview Manor Major Residential Cluster Subdivision Concept Plan (Agenda Item #4), with conditions related to the waivers just approved. Jack Hefestay seconded the motion, which carried unanimously.

**7. Public Workshop: Concept Plan for Martinsburg Pike ROCS (File #S18-06). A proposed gas station with a 5,600 square foot convenience store and 5 fuel islands, with a total of 10 pumps. The property is designated as Tax District: Shepherdstown (09); Tax Map: 8A; Parcel 19, 21 & 23. Zoned: Residential-Light Industrial-Commercial; Size: 3.56 acres, combined.**

Ms. Jennifer Brockman provided an overview of the site plan review process, including Planning Commission and Staff roles in the approval process. She stated that while the proposed use is permitted in the RLIC zoning district, the proposed drive-through that will require a separate Conditional Use Permit which should be included in the motion.

Mr. Ryan Perks and Mr. Todd Heck, from Gordon, are representing the applicant. They stated that the plans have been modified to enclose the vestibule which results in a proposed building size square footage of 6,000 square feet rather than 5,600 square feet. They also mentioned that they disagree with the determination of the need for the CUP for the drive-through restaurant and will discuss with staff. They explained that the ROCs Concept Plan proposes to utilize a shared entrance with the property to the west which is proposed to be amended to a small commercial subdivision with a medical office. The ROCs development will also utilize a right turn out and in only, on the east side of the property. They have already completed a Traffic Impact Study with Charleston and will work with District 5 to complete approvals of these entrances.

Planning Commission members asked for clarification about the WV DOH requirements, the shared entrance and the CUP requirement. Staff and the applicant addressed these questions.

Ms. Jennifer Brockman explained to the Planning Commission that the neighboring development is currently approved as a townhouse development, which will need to be modified per the site plan for ROCS. There will need to be a merger of the townhouse lots and a resubdivision for the proposed commercial lots prior to final approval of the ROCS Site Plan. She also reviewed outside agency comments:

- Public Water and Sewer will be provided by Shepherdstown;
- WV DOH stated that the TIS is not finally approved, but there are preliminary recommendations related to designing for a future widening of WV 45 for a 2 way

left turn lane and the eastern right-in/right-out only entrance both of which are reflected in the Concept Plan. There will be a final approved TIS and highway entrance permit approvals;

- The Board of Health did not have any issues at this time;
- Jefferson County Addressing/GIS asked the applicant to use the existing approved road name.
- Jefferson County Historic Landmarks Commission encouraged the applicant to work with the Shepherdstown Historic Landmarks Commission for design compatible with the Town's historic district; and
- She also reviewed outstanding comments from staff which should be included as conditions for preparation of the Site Plan if the Planning Commission accepts the Concept Plan.

Mr. Donnie Fisher opened the floor to public comment.

The following speakers made comments regarding traffic, gasoline storage, storm water, Rumsey Green clarification, and aesthetic concerns related to the Shepherdstown historic district:

Mark and Elaine Dorosh

Karene Motivans (President, Shepherdstown HLC)

Margaret Spurlin

Teresa Nicole Saunders-Meske (member, Shepherdstown HLC)

Dr. Alan Meske

Ms. Jennifer Brockman explained the zoning of this property and within this area and clarified the status of the Rumsey Green Project.

Mr. Andrew Arnold complemented the applicant on the thoughtfulness of the building design and for hiring a local architect with historic knowledge of the community for the project. He also commented that Shepherdstown needs the convenience of a gas station in Shepherdstown with the expansion of the University and the town and loss of other stations.

Ms. Jennifer Brockman read a written comment received from Steve Ayraud requesting that the sign be required to be a monument style sign, with limited information; requesting landscaping around the stormwater facility along 45; and requesting the extension of Back Alley for bike and pedestrian access. He stated that he was on the Rumsey Green Committee and a previous Planning Commission member in Shepherdstown.

Mr. Ryan Perks, on behalf of the applicant, addressed concerns about stormwater, gasoline standards, blasting, and noted that all proper precautions will be taken. As for Historic Landmark Commissions concerns, there is a local architect working on the project who will take aesthetic concerns into design. Mr. Ryan Perks also stated they will be willing to look into the option of a monument sign and noted that there will be a landscaping plan for

stormwater areas. They will need to review the request related to the extension of Back Alley further before they can respond to this.

Mr. Jack Hefestay stated that the architect they had been using, Sarah Lambert, who had served on the County HLC moved to Texas recently. Other design concepts were discussed.

Ms. Jennifer Brockman restated that because this proposal is a Major Site Plan, the Site Plan will need to come back to the Planning Commission for a Site Plan Public Hearing. This will allow the Planning Commission to see how their concerns are addressed.

Mr. Steve Stolipher made a motion to accept Concept Plan, with the following conditions: look into meeting the three written comments which include the monument signage concept, screening the bioretention facility # 2 along WV 45, and extending Back Alley for pedestrian/bike access; meet with the Shepherdstown Historic Landmarks Commission for their input into the design; and to address Staff Recommendations a – e in the staff report. Mr. Mike Shepp seconded the motion, which carried unanimously.

The following staff recommendations were in the Staff Report:

- a. Based on the Subdivision Regulations, noted above, the site plan will process as a Major Site Development.
  - b. The drive-through component is required to process a Conditional Use Permit, which requires approval by the Board of Zoning Appeals, subject to a Public Hearing.
  - c. The westernmost shared access crosses an undeveloped property with an approved Final Plat known as Seneca Crossing. This proposed shared access impacts the previously recorded Final Plan which may need to be modified or amended to reflect the proposed shared access shown on this plan set. Such modification may impact both the preliminary plat and final plat and may require processing a Concept Plan for this property to allow this access to occur.
  - d. Lots 19, 21 and 23 shall be merged and the existing houses shall be demolished prior to Site Plan approval.
  - e. The gas pumps are proposed to be located within a recorded 60' access easement that is the only legal access to Parcel 19.2. No structures are allowed within an easement. All properties shall have at least a 50' easement (60' for commercial). Revisions to this easement as well as the provision of a new 60' alternative easement to the rear property will have to process prior to the Site Plan approval.
8. **Public Hearing: Waiver request Shepherdstown Public Library (PCW#18-14). Applicant is requesting a waiver from Section 24.108C of the Subdivision and Land Development Regulations which states that the direction provided by the Planning Commission the Minor Site Plan Concept Plan Workshop shall be applicable for a period of two years (from October 13, 2015). The applicant received a one year extension in November 2017 and is requesting an additional 1 year extension of the time requirements to prepare a site plan for the Shepherdstown Public Library project.**

Ms. Brockman provided an overview of the waiver request and reminded the Planning Commission that the development of the library is contingent upon the neighboring properties' developments finalizing the extension of the road, water and sewer. They are collaborating with the neighboring property owners.

Mr. Bob Keller, chairman building committee for Shepherdstown Library, spoke on behalf of Mr. Kinsley and discussed the plans for adjoining properties.

Mr. Donnie Fisher opened public comment.

Mr. Donnie Fisher closed public comment.

Mr. Donnie Fisher and Planning Commission discussed the option of approving a longer extension with Legal Counsel.

Mr. Steve Stolipher made a motion to grant the waiver and extend the Concept Plan for two years (October 13, 2020) and Mr. Wade Louthan seconded the motion, which carried unanimously.

**9. Discussion and Action: For the Planning Commission to vote to approve or deny the Magnolia Springs Preliminary Plat Application (File #18-05) as complete in accordance with Sections 24.113 and 24.114 of the Subdivision Regulations, for the purpose of scheduling a Public Hearing for this application.**

Ms. Jennifer Brockman provided an overview of the project, including discussion of the pages in the Commission packet related to the preliminary plat. She reviewed the conditions of the Motion to accept that Concept Plan (4/10/18 & 5/1/18), the proffers made, and the waivers the Planning Commission approved related to the Magnolia Springs project previously. She clarified that the purpose of this meeting is for the Planning Commission to deem the Preliminary Plat complete and to set a date for the Public Hearing within 45 days. She explained staff review used the maximum 45 review days, but that there are still outstanding comments. She explained these have been sent to the applicant to address. She reported that the applicant prepared a Phase I Archaeological Study as required by the Regulations, but that the State Historic Preservation Office (SHPO) had additional comments about the preservation around the home. Staff stated that the County's Regulations only require the completion of the Study and not further compliance with the SHPO if there is not federal money involved. The applicant is reflecting the proffers related the lots abutting the proposed 5 acre site around the historic home. The TIS has also been completed and WV DOH has reviewed it but have not yet given it final approval which is required before final approval of the Preliminary Plat.

Mr. Mike Shepp asked if they would correct these items before next meeting.

Ms. Jennifer Brockman stated that they should have enough time and that she believes the Plat is complete enough to hold the Public Hearing, which is also permitted to have conditions or to have approval delayed after the Hearing. She stated there should be one more review before the Public Hearing. The Utility/Board of Health Permit and DOH

encroachment permit would be required before the County Engineer would stamp the Preliminary Plat as approved.

Mr. Mike Shepp made a motion that they determined that the site plan is sufficiently complete to advertise for public hearing on December 11, 2018. Mr. Wade Louthan seconded the motion.

Mr. Donnie Fisher modified the motion to state that all the outstanding items are to be resolved, which was accepted by Mike Shepp and seconded by Wade Louthan. Mr. Fisher restated the motion that the Preliminary Plat is sufficiently complete for hearing to be held on December 11, 2018, and directed the applicant to address the staff recommended 15 comments, which carried unanimously.

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

Mr. Nathan Cochran explained he has met with staff and others regarding Improvement Location Permit (ILP) Ordinance. He believes it is preferable that the ILP be part of Subdivision Regulations and not a separate standalone Ordinance, based on WV Code 8A-4-2 which talks about subdivision and land development ordinance. While working with staff, it was determined that there is section of ordinance has a part of this process in it already and it would be easy to transfer. There are issues with Historic Landmarks Commission and whether the authority exists related to building demolition applications and renovations which are still being worked on. He has spoken with Martin Burke with the Jefferson County HLC and they are reviewing the extent of this process. This is currently not ready for action tonight.

Ms. Jennifer Brockman stated that staff may bring this amendment to the Planning Commission separate from other planned amendments to the Subdivision Regulations.

11. Planner's Memo. Ms. Jennifer Brockman provided an overview of the 2019 Meeting Dates and the Planning Commission requested that this be placed on the next agenda for their approval. She also explained that the staff hopes to start working on the listed text amendments again soon. She also noted that the 1<sup>st</sup> Quarter quarterly report from the Planning Commission was not completed in October and that the 2<sup>nd</sup> Quarter Report will include both quarters so that the Planning Commission can forward this information to the County Commission in January, 2019.

12. President's Report. None.

13. Actionable Correspondence. None.

14. Non-Actionable Correspondence. None.

Mr. Donnie Fisher closed the meeting at 9:17pm.