

Meeting Minutes  
Jefferson County Planning Commission  
May 05, 2020

The Jefferson County Planning Commission met on May 05, 2020 with the following Commission members present: Mike Shepp, President; Donnie Fisher, Vice President; Wade Louthan, Secretary; Jack Hefestay, Steve Stolipher, J Ware, and Ray Bruning. Staff members present included: Jennifer Brockman, County Planner; Jonathan Saunders, County Engineer; Alexandra Beaulieu, Zoning Administrator; Nathan Cochran, County Attorney; Rachael Burke, Planning Clerk.

Mr. Ralph Lorenzetti, County Commission Liaison and Ron Thomas were absent without prior notification.

Meeting was held via ZOOM Meeting Room and the public was invited to join via the agenda, posted to the County site. Sign-ups for Citizen Communication and Public Hearing were done via the chat function.

Mr. Mike Shepp called the meeting to order at 7:05 pm.

1. Approval of the April 14, 2020 meeting minutes, approved as submitted.
2. Citizen Communications

Doug Rockwell and Bob Aitcheson both asked Rachael Burke to sign them up for Citizens Communication, they both spoke regarding the Solar Facility Amendment – Item #5.

Mr. Rockwell wanted to propose edits to the amendment and written communication was provided prior to the meeting, some of which was included in the packet and other provided as a handout (via e-mail) prior to the Planning Commission Meeting to the members.

Mr. Aitcheson asked Mr. Stolipher about his letter of request regarding recusing himself from the Text Amendment regarding Solar Facility. He also reviewed the comments he sent as non-actionable correspondence, also sent via e-mail to Planning Commission members, which he reviewed during his speaking time.

3. Request for postponement. None.
4. **Public Hearing:** Application by Michael C. Wilson (File #20-2-PCW), requesting a waiver from Section 20.201A(2) of the 2008 Subdivision Regulations, as amended, which requires all lots in minor residential subdivisions to have motor vehicle access via a 50' access easement, provided that the access easement serves no more than 5 lots. Applicant is requesting to utilize an existing 30' easement (Amnesty Way) to access a proposed two additional lots for a total of 6 lots. The property is designated as Tax District: Shepherdstown (09); Tax Map: 4, Parcel: 5; Zoned: Rural; Size: 22.276 acres. (Resubmission of File # 20-1-PCW).

Mr. Mike Shepp recused himself due to a potential conflict of interest and Vice President, Donnie Fisher ran this agenda item.

Ms. Jennifer Brockman provided an overview of the applicant's request, which encompasses two components: The use of the 30-foot right-of-way and to create lots 5 & 6 – for a total of 5 lots on Mr. Wilson's property. She reviewed the photographs of the site and explained the history and previous requests made by the applicant. She pointed out that Shepherd Grade Road, like many state roads, is within a 30' right-of-way and that minor subdivisions do not require engineering plans or the improvement of the road.

Applicant, Michael Wilson spoke about improvements made to Amnesty Way since the March 10, 2020 Meeting. He submitted a written statement April 22, 2020 to the PC Members, which was included in the packet and referenced in his overview.

Mr. Donnie Fisher opened the floor to Public Comment. The following people signed up to speak. Their comments included concerns with road width for emergency access and increased traffic to a paved portion at the entrance of Shepherd Wood, which is only maintained by residents of the Subdivision. A video was provided prior to the meeting and reviewed during the meeting by the members individually.

Jason Dom  
Casey Reese  
Mike Zagarella  
David Glenn  
Suzanne Offit

James Munis, added later from chat function, after public comment was closed. Mr. Fisher allowed him to speak.

Mr. Donnie Fisher gave the applicant an opportunity to respond to the comments made.

Mr. Mike Wilson stated he was not aware this area was to be intended to remain a farm. He also addressed the 11-foot width of the road and explained that it could be widened and has access in the event of an emergency. He also addressed the comment about trash pickup.

Mr. Fisher asked who uses this road presently, Ms. Brockman explained there is one person that uses this Amnesty Way, currently. She reiterated a Minor Subdivision does not have a road standard.

Mr. Donnie Fisher closed Public Comment.

Planning Commission members and staff discussed length of the road and other inquiries about trash pickup and turn around areas.

Mr. Steve Stolipher made a motion to approve the request as submitted by the applicant. Mr. Ray Bruning seconded the motion. Donnie Fisher, Steve Stolipher, Ray Bruning, Jay Ware and Wade Louthan voted yes. Jack Hefestay voted no, which carried (5 to 1).

5. **Discussion and Action:** ZTA19-03 Proposed Solar Energy Facility Text Amendment developed at the direction of the Planning Commission including proposed revisions related to the processing of solar energy facilities. The proposed text amendment includes revisions to Article 2, Section 2.2, "Definitions"; Article 8, Supplemental Use Requirements (proposed new Section 8.20 Solar Energy Facilities); and Appendix C, Principal Permitted and Conditional Uses Table. The purpose of the meeting is to review the proposed text amendment and to schedule a Public Hearing to receive input on the proposed text amendment.

Mr. Nathan Cochran, attorney, reminded Mr. Mike Shepp about the written request for Mr. Stolipher to recuse himself, submitted by Mr. Bob Aitcheson. Mr. Stolipher spoke to this and stated that he checked with the West Virginia ethics commission to make sure there was no conflict and noted that based on their response, he would not recuse himself.

Ms. Alexandra Beaulieu provided an overview of the proposed text amendment that was drafted by the Planning Commission appointed subcommittee. She outlined the next steps required as part of the text amendment process. Ms. Beaulieu also pointed out that Sec. 8.20.B.3.c, which pertains to buffer requirements for Accessory Components, was intended to include similar language found in the previous subsection 3.a, that the buffer was not required to be installed along the entire length of the common property line. She requested that the Planning Commission consider this item as part of their recommendation when considering scheduling a public hearing.

The Planning Commission asked a couple questions regarding the buffer standards and also requested that Mr. Goodwin provide an overview of his memo, specifically addressing the 30-year decommissioning bond.

Mr. Roger Goodwin provided a summary of his research pertaining a 30 year decommissioning bond and concluded that based on his research, he did not believe State Code enabled the County to require a 30 year decommissioning bond and requested Mr. Cochran's legal advice.

Mr. Nathan Cochran stated his initial thoughts were that he agreed with Mr. Goodwin's assessment.

Mr. Mike Shepp asked about the land owner's role in this.

Mr. Roger Goodwin stated that his recommendation was that the decommissioning plan should be the property owner's responsibility and that a property owner could include decommissioning requirements in the lease agreement with the solar company. He stated that the Ordinance could have a requirement to allow the County to enforce decommission as an alternative to requiring a decommissioning bond.

Ms. Beaulieu stated that this requirement was included at the bottom of page 109 (Sec. 8.20.B.5.c), which requires that an affidavit be submitted from the Property Owner acknowledging that the Solar Facility Decommissioning Plan is the Property Owner's responsibility.

Mr. Mike Shepp referenced the buffering requirements noted by Ms. Beaulieu and stated that he believed it was an oversight during the review and that the intent was to keep the requirements in Sec. 8.20.B.3.a and 3.c the same.

Mr. Stolipher motioned to accept the correction pertaining to the buffer requirements as noted by Staff and motioned to schedule a Public Hearing on June 2, 2020. Mr. Fisher seconded the motion, which carried unanimously.

**10. Reports from Legal Counsel.** None.

**11. Planners Memo:**

- Ms. Jennifer Brockman reviewed Department of Engineering, Planning and Zoning operations at this time during the COVID-19 restrictions which are in place until 5-23-20. Planning and Zoning are still working remotely and the County Commission will meet again on 5-22-20 to discuss this further.

- We have returned the Greenway draft reorganization of the Subdivision Regulations.
- The next Planning Commission Meeting will be, Tuesday, June 2, 2020 due to the June 9, 2020 Primary Election date.

12. **President's Report:** Mr. Mike Shepp does not have a report but thanked the staff for their hard work during this stressful time.

13. **Actionable Correspondence:** None.

14. **Non-Actionable Correspondence:**

- Letter from Doug Rockwell: Re Solar Energy

Mr. Shepp closed the meeting at 8:40pm.