



AGENDA

Jefferson County Planning Commission

Tuesday, June 22, 2021 at 7:00 PM

All Citizens that desire to speak must sign-in prior to the Agenda Item being addressed. This meeting will NOT be a live broadcast on our website. Instead, it will be accessible through a live ZOOM Meeting only.

If you wish to make a public comment for one of the agenda items, please type your name, address, and agenda item # in the chat function at the start of the meeting.

****Please use the following information to join the ZOOM Meeting****

Join Zoom Meeting

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Find your local number: <https://us02web.zoom.us/j/85874983254>

1. Request for postponement.
2. **Public Hearing:** Request by Robert Franks, Sheetz Inc., (File#21-10-PCW). Applicant is requesting a waiver from Section 20.102B to allow for site grading to commence prior to site plan approval. The request is to allow initial construction to commence during seasons favorable for site work. The property is designated as Tax District: Shepherdstown (09); Tax Map: 8; Parcels: 13, 15.2, parts of 10.2 & 14. Zoned: Residential-Light Industrial-Commercial (RLIC); Size: 5.4 acres (after merger).

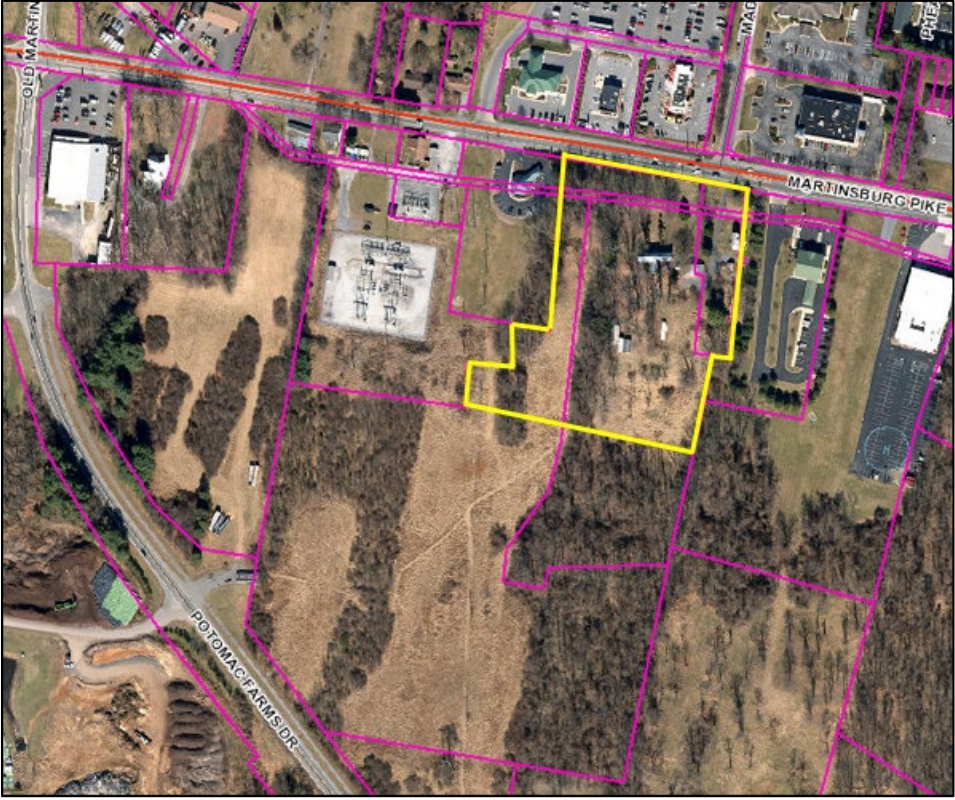
There is no public comment for the following items.

3. **Discussion and Action:** For the Planning Commission to vote to approve or deny the Shepherdstown Sheetz Store 160 (a Major Non-Residential Site Development) Site Plan Application (File# 20-10-SP) as completed in accordance with Sections (24.122 and 24.123) of the Subdivision Regulation, for the purpose of scheduling a Public Hearing for this application. The property is designated as Tax District: Shepherdstown (09); Tax Map: 8; Parcels: 13, 15.2, parts of 10.2 & 14. Zoned: Residential-Light Industrial-Commercial (RLIC); Size: 5.4 acres (after merger).
 4. Reports from Legal Counsel
 5. Planner's Memo
 6. President's Report
 7. Actionable Correspondence
 8. Non-Actionable Correspondence
-

Staff Report
 Jefferson County Planning Commission
 June 22, 2021

Shepherdstown Sheetz Early Grading (File #: 21-10 -PCW)

Item #2: Public Hearing: Applicant is requesting a waiver from Section 20.102B to allow for site grading to commence prior to site plan approval. The request is to allow initial construction to commence during seasons favorable for site work.

Owner/Developer:	Bob Franks, Sheetz Inc.	
Surveyor/Engineer:	Gordon	
Property Location:	7948 Martinsburg Pike, Shepherdstown, WV; on the south side of the intersection of Martinsburg Pike (WV 45) & Maddex Square Dr.	
Parcel Information and Zoning District:	<p>Tax Dist. Shepherdstown (09); Tax Map: 8; Parcels: 13, 15.2, parts of Parcels 10.2 & 14. Total Project Size: 5.4 acres (after merger); Zoning District: Residential-Light Industrial-Commercial</p> 	
Surrounding Zoning:	<p><i>North:</i> Residential-Light Industrial-Commercial <i>South:</i> Residential Growth <i>East:</i> Residential Growth <i>West:</i> Residential Growth</p>	
Previous Approvals:	<ul style="list-style-type: none"> • 21-19-M Jesse R. Van Evera Testamentary Trust Boundary Line Adjustment to merge relevant lots involved in the 20-1-Z rezoning was submitted 6/8/21 – still under review • 20-10-SP Site Plan was submitted 3/30/21 – still under review; nearly ready to deem complete • 20-10-SP: Public Workshop for Concept Plan for Shepherdstown Sheetz Store for proposed gas station with a 6,100 square foot Convenience Store with drive-thru, five (5) fueling islands with canopy, car wash, and related improvements (PC approved 2/9/21) • 20-1-Z: Zoning Map Amendment (rezoning) from Residential Growth to Residential-Light Industrial-Commercial (CC approved 12/03/20) 	

Staff Report

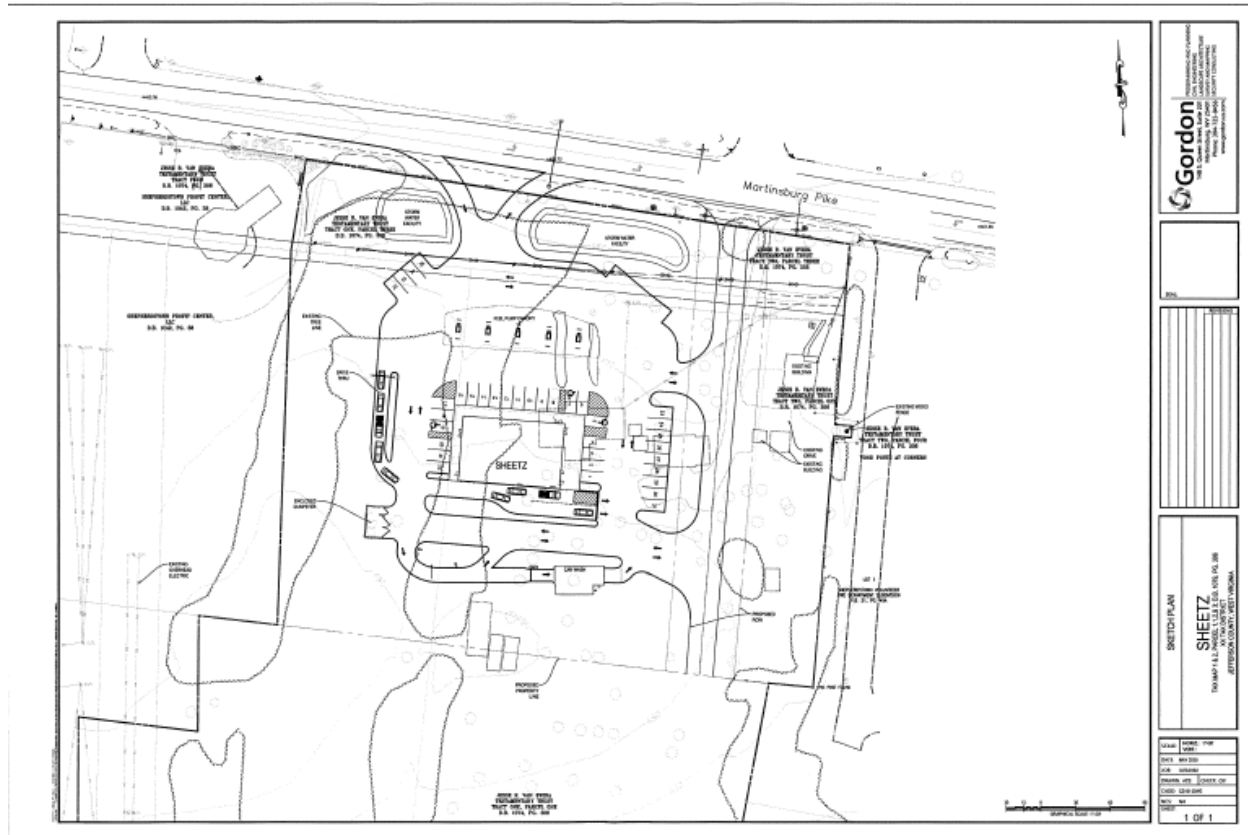
Jefferson County Planning Commission

June 22, 2021

Shepherdstown Sheetz Early Grading (File #: 21-10 -PCW)

1. Development Review Status

This applicant/developer of this property, located across WV 45 from the Maddex Square Shopping Center on the south side of Martinsburg Pike (WV 45), had a Concept Plan approved by the Planning Commission after a Public Workshop in February 2021. The approved Concept Plan included a sketch for the proposed development meeting the definition of “Gas Station, Large” to allow the construction of a new Sheetz gas station with a 6,100 square foot Convenience Store with drive-thru, five (5) fueling islands, car wash, and related improvements to replace the existing Sheetz store closer to town. “Gas Station, Large”, including the convenience store with a drive through service window, is a Principal Permitted Use in the RLIC zone.



The property will be served by Shepherdstown water and wastewater facilities. It is proposed to have a primary access point from the traffic light at Martinsburg Pike and Maddex Square Drive, with an additional right in/right out from WV 45 on the western side of the property. The access is designed to allow the continuation of a road to the balance of the property zoned Residential Growth which eventually accesses Potomac Farms Drive (Alternate WV45).

The applicant submitted a Site Plan (20-10-SP) for the proposed project on March 30, 2021, which has been submitted for its third review. The applicant also submitted a Boundary Line Adjustment (BLA) on June 8, 2021 to merge the portions of four parcels involved in the rezoning in December 2020 which has had one review. This BLA is required to be approved and recorded before the Site Plan can be approved.

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Shepherdstown Sheetz Early Grading (File #: 21-10 -PCW)

The primary outstanding comments for the Site Plan relate to the requirement that the Boundary Line Adjustment be approved and recorded and that the approved permits from the WV DOH and the Shepherdstown Utility Board for both water and sanitary sewer be provided to the Department of Engineering, Planning and Zoning before the Site Plan can be approved.

The WVDOH is also required to approve the Traffic Impact Study (TIS) and finalize the various road improvements required to be installed by the developer, including coordination of access to Jefferson Security Bank and installation of the northbound traffic light at the Maddox Square intersection.

Because this project is processing as a Major Site Development, staff is required to place the site plan on a scheduled Planning Commission agenda for a vote to accept or deny the application as complete and to set the required public hearing within 45 days, in accordance with Section 24.123. This agenda item is also on this evening's agenda.

2. **Planning Commission Approval of the Concept Plan**

At the February 9, 2021 Public Workshop, the Planning Commission staff noted that the following standards are required to be met prior to approval of the Site Plan:

- a. Parcels 12, 15.2 and the relevant portions of Parcels 10.2 and 14 are required to be merged into a single 5.4-acre parcel.
- b. Based on the Subdivision Regulations, the site plan will process as a Major Site Development. As a part of a Major Site Plan, the following design requirements shall be addressed on the site plan:
 - i. Sidewalks/Bike paths (Sections 22.208 and 21.204 of the Sub Regs)
 - ii. Interconnectivity with adjoining properties (Sections 21.201 and 21.202 of the Sub Regs)
- c. WV DOH approval will be required in conjunction with the Site Plan.
- d. Water and sanitary sewer utility permits from the Corporation of Shepherdstown will be required in conjunction with the Site Plan.

After the Public Workshop, the Planning commission made a motion to accept the Concept Plan as presented.

3. **Subdivision Regulation Requirements**

Section 20.102 "Applicability" of the Subdivision and Land Development Regulations states in subsection "B. Approval Required" that "Before development of the land is commenced, subdivision plats and site plans must be approved by the Planning Commission, recorded, and surety posted for required improvements in accordance with these Regulations and the Comprehensive Plan." There is no provision in the Subdivision Regulations allowing the approval and bonding of a portion of the required engineering design for plats and/or site plans, therefore this waiver is required to process before the Planning Commission.

4. **Summary of the Request:**

Applicant is requesting a waiver (20-10-PCW) from Section 20.102B of the Subdivision Regulations to allow for site grading to commence prior to site plan approval. The request is to allow initial construction to commence during seasons favorable for site work.

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Shepherdstown Sheetz Early Grading (File #: 21-10 -PCW)

This type of waiver request is different from most waiver requests because the applicant is not requesting a waiver from any standards or procedures in this request. The applicant is planning to meet all standards and processes required in the Zoning Ordinance and Subdivision Regulations. The request is to allow the applicant to split the grading approval and bonding from the remainder of the site plan approval and bonding. In the current Ordinance and Regulations, the applicant is required to have an approved Site Plan before any site grading can occur.

The applicant would like to begin the site grading prior to receiving final site plan approval. There are other communities whose land development regulations allow for rough site grading, before issuance of a final site plan or issuance of a building permit and it is generally a separate permit process. It is understood that the applicant assumes the risk that during final site plan review, a change could occur which would affect the grading that was previously completed. A bond would be required for any work related to the rough grading that would allow the property to be restored to original condition if the Site Plan is not approved or is not completed.

5. **Waiver Requirements:**

The applicant addresses the following requirements found in “Division 24.300 Waivers” of the Subdivision Regulations in the attached application. Waivers from the minimum standards in these Regulations may be granted by the Planning Commission only when the Planning Commission finds that granting a waiver will be consistent with all of the following criteria:

- (1) that the design of the project will provide public benefit in the form of reduction in County maintenance costs, greater open space, parkland consistent with the County parks plan, or benefits of a similar nature;
- (2) that the waiver, if granted, will not adversely affect the public health, safety or welfare, or the rights of adjacent property owners or residents;
- (3) that the waiver, if granted, will be in keeping with the intent and purpose of these Regulations; and
- (4) that the waiver if granted will result in a project of better quality and/or character. Process and procedural waivers shall be reviewed and found consistent with the above criteria prior to approval.

6. **Staff Comments/Recommendation:**

As stated above, the requested waiver is limited to splitting the approval and bonding process for site grading from the rest of the Site Plan approval and bonding process. The applicant will follow all standards and processes unless another waiver is processed. The Planning Commission has previously approved similar requests, including for the ROCS gas station and the Seneca Crossing property to the east of this site, with conditions related to the request.

Staff recommends approval of the waiver request with the following conditions:

- a. A grading permit is issued to allow the owner to perform site grading in preparation for the building pad and related improvements. This permit is subject to the requirements of the sediment and erosion control plan submitted and approved as part of the grading plan and building permit application and a NPDES permit is obtained; and

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Shepherdstown Sheetz Early Grading (File #: 21-10 -PCW)

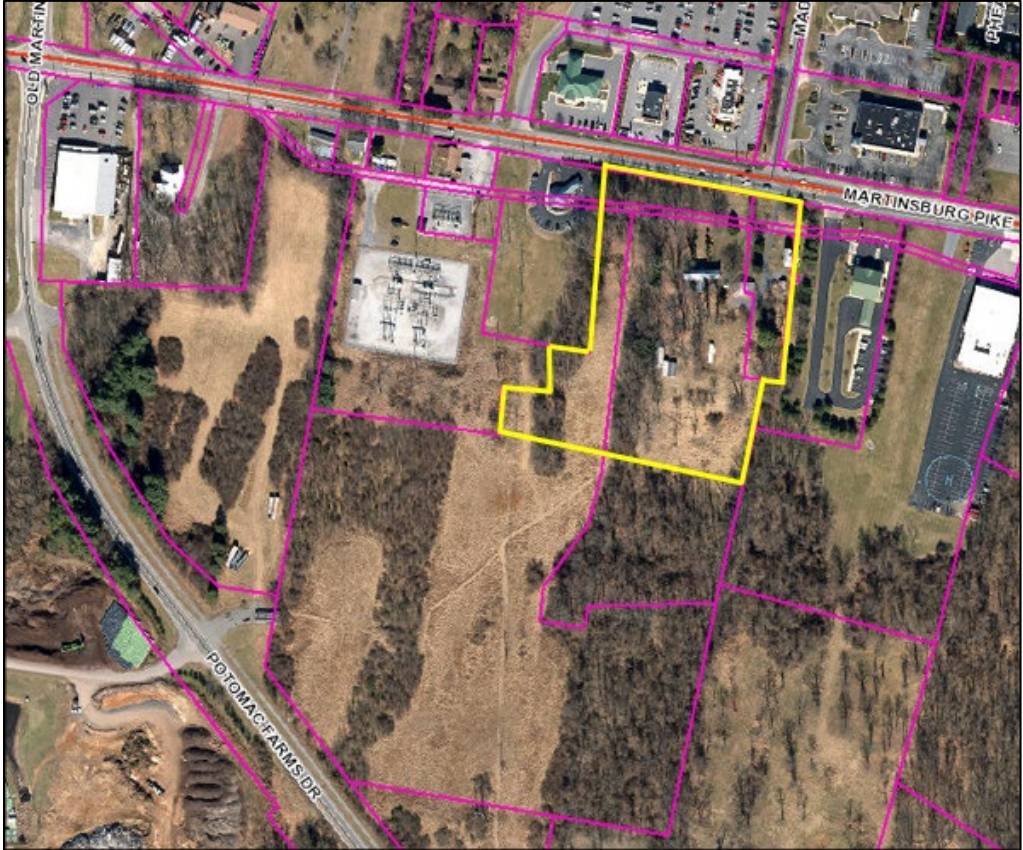
- b. The owner/Developer assumes all risk for “jump-starting” the project and understands that the final site plan design approved by the Planning Commission might necessitate some changes and additional construction cost; and
- c. Provide bonding of all proposed site improvements related to sediment and erosion control/SWM pertaining to the permit.

As a reminder, this Site Plan cannot be approved until the Boundary Line Adjustment is approved creating a single lot, a WV DOH entrance permit is obtained, all utility permits have been obtained, and until the Planning Commission has accepted the Site Plan as complete and has held the required Public Hearing.

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 Jefferson County Planning Commission
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Shepherdstown Sheetz Site Plan Completeness (File #: 20-10-SP)

Item #3: Discussion and Action: To approve or deny the new Shepherdstown Sheetz Gas Station and Store Site Plan Application (File # 20-10-SP) as complete in accordance with Sections 24.122 and 24.123 of the Subdivision Regulations for the purpose of scheduling a Public Hearing.

Owner/Developer:	Bob Franks, Sheetz Inc.	
Surveyor/Engineer:	Gordon	
Property Location:	7948 Martinsburg Pike, Shepherdstown, WV; on the south side of the intersection of Martinsburg Pike (WV 45) & Maddex Square Dr.	
Parcel Information and Zoning District:	<p>Tax Dist. Shepherdstown (09); Tax Map: 8; Parcels: 13, 15.2, parts of Parcels 10.2 & 14. Total Project Size: 5.4 acres (after merger); Zoning District: Residential-Light Industrial-Commercial</p> 	
Surrounding Zoning:	<p><i>North:</i> Residential-Light Industrial-Commercial <i>South:</i> Residential Growth <i>East:</i> Residential Growth <i>West:</i> Residential Growth</p>	
Previous Approvals:	<ul style="list-style-type: none"> • 20-10-PCW Public Hearing for Early Grading Request 6/22/21 action pending • 21-19-M Jesse R. Van Evera Testamentary Trust Boundary Line Adjustment to merge relevant lots involved in the 20-1-Z rezoning was submitted 6/8/21 – still under review • 21-14-ZV: Public Hearing for Variance related to vegetative buffers (BZA Approved 4/22/21) • 20-10-SP Site Plan was submitted 3/30/21 – still under review; nearly ready to deem complete • 20-10-SP: Public Workshop for Concept Plan for Shepherdstown Sheetz Store for proposed gas station with a 6,100 square foot Convenience Store with drive-thru, five 	

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Shepherdstown Sheetz Site Plan Completeness (File #: 20-10-SP)

	<p>(5) fueling islands with canopy, car wash, and related improvements (PC approved 2/9/21)</p> <ul style="list-style-type: none">• 20-1-Z: Zoning Map Amendment (rezoning) from Residential Growth to Residential-Light Industrial-Commercial (CC approved 12/03/20)
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1. Introduction and Summary of Request

This applicant/developer of this property, located across WV 45 from the Maddex Square Shopping Center on the south side of Martinsburg Pike (WV 45), is proposing the construction of a “Gas Station, Large” at this location to replace the existing Sheetz gas station. The project includes the construction of a new Sheetz gas station with a 6,100 square foot Convenience Store with drive-thru, five (5) fueling islands, car wash, and related improvements. The proposed use meets the definition of a “Gas Station, Large”, including the convenience store with a drive through service window, and is a Principal Permitted Use in the RLIC zone.

The property will be served by Shepherdstown water and wastewater facilities. It is proposed to have a primary access point from the traffic light at Martinsburg Pike and Maddex Square Drive, with an additional right in/right out from WV 45 on the western side of the property. The access is designed to allow the continuation of a road to the balance of the property zoned Residential Growth which eventually accesses Potomac Farms Drive (Alternate WV45).

Because this project is processing as a Major Site Development, staff is required to place the site plan on a scheduled Planning Commission agenda for a vote to accept or deny the application as complete and to set the required public hearing within 45 days, in accordance with Section 24.123 which is the purpose of this agenda item.

2. Planning Commission Approval of the Concept Plan

The Planning Commission held a Public Workshop for the Concept Plan for the proposed Shepherdstown Sheetz on February 9, 2021. At the Public Workshop, the Planning Commission staff noted that the following standards are required to be met prior to approval of the Site Plan:

- a. Parcels 12, 15.2 and the relevant portions of Parcels 10.2 and 14 are required to be merged into a single 5.4-acre parcel.
- b. Based on the Subdivision Regulations, the site plan will process as a Major Site Development. As a part of a Major Site Plan, the following design requirements shall be addressed on the site plan:
 - i. Sidewalks/Bike paths (Sections 22.208 and 21.204 of the Sub Regs)
 - ii. Interconnectivity with adjoining properties (Sections 21.201 and 21.202 of the Sub Regs)
- c. WV DOH approval will be required in conjunction with the Site Plan.
- d. Water and sanitary sewer utility permits from the Corporation of Shepherdstown will be required in conjunction with the Site Plan.

After the Public Workshop, the Planning Commission made a motion to accept the Concept Plan as presented.

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Shepherdstown Sheetz Site Plan Completeness (File #: 20-10-SP)

3. Approved Waivers/Variations

At the tonight's Planning Commission meeting, the Commission considered a waiver from Section 20.102B to allow for site grading to commence prior to site plan approval. Staff recommended the following conditions:

- a. A grading permit is issued to allow the owner to perform site grading in preparation for the building pad and related improvements. This permit is subject to the requirements of the sediment and erosion control plan submitted and approved as part of the grading plan and building permit application and a NPDES permit is obtained; and
- b. The owner/Developer assumes all risk for "jump-starting" the project and understands that the final site plan design approved by the Planning Commission might necessitate some changes and additional construction cost; and
- c. Provide bonding of all proposed site improvements related to sediment and erosion control/SWM pertaining to the permit.

Action on this waiver is likely to have occurred prior to this agenda item. No other waivers have been processed for this project.

In addition to this waiver, on April 22, 2021, a Zoning Variance request from Section 4.11.E.1 and Appendix B to modify the vegetative buffer requirement for a commercial use next to a lot in the Residential Growth zoning district and to utilize any existing vegetation on the side and rear property lines in lieu of the required planted landscaping. The Variance was approved with the condition that anywhere existing vegetation is utilized; the applicant is required to provide documentation that the existing vegetation is comprised of hardwood and/or evergreen trees that meet or exceed the buffer requirements in the Ordinance.

4. Status of the Site Plan

The applicant has submitted a Major Site Plan for the new Shepherdstown Sheetz Store for review and approval. Per Sec. 24.122 of the Subdivision Regulations, a Major Site Plan requires the Department of Engineering, Planning and Zoning to review the submission and determine whether it is sufficient within ten (10) days of the 45-day sufficiency and completeness review. Staff reviewed the plan submitted and had comments but deemed the application "sufficient" and agreed to proceed with the completeness review provided that the comments were addressed as requested in the sufficiency e-mail.

Engineering, Planning and Zoning Staff have conducted two reviews of the Plan set (and it is now resubmitted for a third review) and have now finalized the "completeness review" with some outstanding comments (below). Per Section 24.122 of the Subdivision Regulations, staff has placed the Major Site Plan and application on the next scheduled Planning Commission agenda for a vote to accept or deny the application as complete. The complete file containing the Site Plan and application can be made available for the Planning Commission should any members wish to review it for completeness and confirm the staff's review.

Per Sec. 24.122(E), if the application is found complete or essentially complete, the Planning Commission shall schedule a public hearing within 45 days in accordance with Section 24.114, *Major Subdivision Preliminary Plat - Public Hearing*. If the application is incomplete, the applicant shall be notified in writing stating the reasons for denial. A motion to deem the application to be complete should include a condition that the outstanding staff comments be addressed prior to the hearing.

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Shepherdstown Sheetz Site Plan Completeness (File #: 20-10-SP)

5. Site Plan Contents and Review

The Major Site Plan submission requirements include the following (Section 24.122(B)) and the application has been deemed sufficient and complete by staff:

- Site Plan
- Density Calculation and Site Resource Map
- General Location Map
- Final Engineering Plans
- Final Landscape Plans
- Transportation Impact Study and WV DOH Approvals
- Water and Sewer Services
- On-Site Sewer and Water (if applicable)
- Special Engineering
- Open Space
- Stormwater Management Plan
- Surety Estimates
- Other Agency Sign-offs
- Identified Concerns from Concept Plan direction or proffers

The Subdivision Regulations require the review of the submitted application and Site Plan by the Department of Engineering, Planning and Zoning (“the Department”) as well as the WVDOH and the relevant Public Service Agencies, in this case the Shepherdstown Water and Wastewater Utility Departments. The Department is required to determine whether the density, use, and plan meet the requirements of the Zoning Ordinance and any other zoning issues and/or variances that can be identified at the Preliminary Plat submission. Additionally, the Department is required to review and approve all matters under its jurisdiction; issue a zoning compliance letter (Zoning Certificate); and certify that all proffers have been satisfied.

After the second review, Staff had the following outstanding comments, which must be resolved before the Site Plan can be approved:

- a. The WVDOH required a Traffic Impact Study for the proposed gas station which has been reviewed but not yet been approved. The Subdivision Regulations also require the issuance of an approved encroachment permit for the access across from Maddex Square Drive, the connection with Jefferson Security Bank, the installation of the northbound traffic light, the right in/right out on the western edge of the property, and other required road improvements before the Site Plan can be approved.
- b. The Shepherdstown Water and Wastewater Departments will be providing water and wastewater service to the new Shepherdstown Sheetz Store #160 site. Letters of approval or permit numbers for this access will also be required prior to approval of the Site plan. If bonding is not required by the Corporation of Shepherdstown, bonding for these improvements will be required by the County.
- c. The applicant submitted a Boundary Line Adjustment (BLA) on June 8, 2021 to merge the portions of four parcels involved in the rezoning in December 2020, which has had one review. This BLA is required to be approved and recorded before the Site Plan can be approved.

Staff has finalized its completeness review but is not able to stamp the Site Plan as approved by staff until these outstanding comments have been addressed. This staff report serves as the written opinion

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June 22, 2021

Shepherdstown Sheetz Site Plan Completeness (File #: 20-10-SP)

that the Site Plan essentially conforms to the Zoning Ordinance requirements, generally meets the site planning criteria specified in Articles 21 and 22 and Appendix B of the Subdivision Regulations, and fulfills the Concept Plan direction. The outstanding staff comments are noted above and addressing them shall be a condition of finding the Site Plan “complete”.

6. Planning Commission Action Required

The Subdivision Regulations require that, after staff concludes the completeness review, staff shall place the Major Site Plan on the next regularly scheduled Planning Commission agenda for a vote to accept or deny the application as complete. If the application is found complete or essentially complete, the Planning Commission shall schedule a public hearing within 45 days of that meeting. If the application is incomplete, the applicant shall be notified in writing stating the reasons for denial.

Section 24.122(D) further directs the Planning Commission review of Major Site Plan and states that if the Site Plan and application are incomplete, or the development cannot conform to the Zoning Ordinance, be serviced by public services or on-site utilities, the Planning Commission shall deny the Site Plan; otherwise, the Planning Commission shall find it complete and accept it. The Planning Commission may also accept the Site Plan and application with the condition that the remaining items identified as necessary by these Regulations be completed prior to final Site Plan approval. The remaining items that need to be addressed prior to final approval of the Site Plan relate to the approval of the Boundary Line Adjustment, and submission of approved permits from the WV DOH and the Shepherdstown Water and Wastewater Utility Departments for both water and wastewater services.

Upon deeming the application complete, the Planning Commission shall schedule a Public Hearing to receive public comments, concerns, and inputs on the proposed Site Plan within 45 days. The Commission’s next regular meeting on August 10, 2021 will satisfy this requirement and the 21-day notice requirement can be met by staff. A reduced copy of the revised complete Site Plan and application will be included in the Public Hearing packet.

NON ACTIONABLE
CORRESPONDENCE

Received after deadline

Received June 8th 6:20 pm

From: [Steven Welch](#)
To: [Jessica Carroll](#)
Cc: [Stephanie Grove](#); [Sandra McDonald](#); Planning_Department@jeffersoncountywv.org; [Planning Department](#)
Subject: June 8 Jefferson County Planning Commission - Solar Panel Project Comment
Date: Tuesday, June 8, 2021 5:56:58 PM

>

> Hello,

>

> Unfortunately, our schedule does not allow us to attend tonight's meeting, but we wanted to ensure our voices were heard regarding the latest developments concerning solar farms in Jefferson County.

> As concerned residents (and taxpayers) of Jefferson County, we are deeply disappointed that the Solar Energy Facility Concept Plan was approved.

>

> Desecrating beautiful and picturesque agricultural land with these unsightly monstrosities is heartbreaking. The Jefferson County Planning Commission failed the entire county by not killing this project a long time ago.

>

> Moreover, the detrimental and inefficient solar plants will have a catastrophic effect on property values in residential zones. Yet again, government has failed its constituents. In this case, the taxpayers' primary investment of home ownership has been undermined.

>

> Had we known of this ludicrous project, my family and I would not have moved here. The natural beauty of the area was part of the draw. Now that trait will be indelibly altered for future generations. Installing hundreds, if not thousands, of solar panels throughout the county on agricultural and residential land is foolish, shortsighted, and speaks to all that is wrong with local government.

>

> We pray there is still time for the County Commission to regain its collective senses and cancel this ridiculous project, for the benefit of all county residents.

>

> Regards,

> Steven and Olivia Welch and Family

From: [Olivia Welch](#)
To: [Jessica Carroll](#)
Cc: [Stephanie Grove](#); [Sandra McDonald](#); Planning_Department@jeffersoncountywv.org; [Planning Department](#)
Subject: Re: June 8 Jefferson County Planning Commission - Solar Panel Project Comment
Date: Tuesday, June 8, 2021 6:20:43 PM

Good afternoon,

Unfortunately my schedule does not allow me to attend tonight's meeting, but I wanted to comment and at least have my voice heard.

As a concerned resident and taxpayer I am deeply disappointed that the Solar Energy Facility Concept Plan was approved.

Desecrating beautiful and picturesque agricultural land with these unsightly monstrosities is heartbreaking. We have no idea the long term health ramifications and the effects on our natural environment and water table. The Jefferson County Planning Commission failed the county by not killing this project a long time ago.

Moreover, these solar plants will have a horrible effect on property values in residential zones. Yet again, government has failed its constituents. In this case, the taxpayers' primary investment of home ownership has been undermined. Personally, had I known of this project, my family and I would not have moved here. The natural beauty of the area was part of the draw. Now that trait will be indelibly altered for future generations. Installing thousands of solar panels throughout the county on agricultural and residential land is foolish and shortsighted.

I urge you to reconsider allowing this to move forward.

Sincerely,
Olivia Welch