

Meeting Minutes
Jefferson County Planning Commission
August 10, 2021

The Jefferson County Planning Commission met on August 10, 2021 at 7:00 pm with the following Planning Commission members present in person: Mike Shepp, President; Wade Louthan, Secretary; Jack Hefestay, Steve Stolipher, Ron Thomas and Matt Knott; and, the following members present via ZOOM: Shane Roper. Donnie Fisher, Vice President, was absent with notice. J. Ware was absent without notice.

Staff members present included Jennifer Brockman, County Planner; Jonathan Saunders, County Engineer; Nathan Cochran, County Attorney, Alice Johns, Planning Clerk.

By order of the President, the Planning Commission meeting was held in person for Commissioners and applicants and virtually via ZOOM for the public. Access information was made available on the agenda and packet, which were posted to the County website.

Ms. Brockman conducted a roll call. Mr. Shepp verified that there was a quorum and called the meeting to order at 7:00 pm.

1. Approval of Meeting Minutes: July 13, 2021.

Mr. Shepp called for a vote for the July 13, 2021 minutes. Mr. Louthan moved to approve the minutes as presented. Mr. Stolipher seconded the motion, which carried unanimously.

2. Request for postponement. None.

3. **Public Hearing:** Major Site Plan for the Shepherdstown Sheetz Store 160, consisting of a 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. Property Owner: PTM, LLC. Applicant: Sheetz, Inc. Property Location: 7948 Martinsburg Pike, Shepherdstown WV. Tax District: Shepherdstown (09); Tax Map: 8; Parcels: 13, 15.2 and portions of Parcels: 10.2 and 14. Total Project Size: 5.4 acres (after merger); File: 20-10-SP.

Ms. Brockman provided an overview of the request noting that this project had been before the Commission several times, including the rezoning the property, the concept plan, and an Early Grading waiver request.

Ms. Brockman indicated that she had heard from DOH and Shepherdstown Water and that they will approve the project; however, they do not have a permit number at this time. Ms. Brockman suggested that as a condition of approval that the applicant submit the required permit numbers.

Ben Svedlow and Chad Wallen with Gordon were present in person and the applicant Bob Franks was present via ZOOM. Mr. Svedlow provided an overview of the project and the approval process.

Mr. Shepp opened the public hearing.

In addition to his written comments included in the Planning Commission packet, Mr. David Pugh, Shepherdstown resident, raised the following concerns:

- The size of the Sheetz location.
- What the “related improvements” referenced in the Staff Report are.
- Pedestrian safety and indicated the pedestrian bike path ends at the location of the entrance to Sheetz; concern regarding lack of pedestrian crossing at this intersection; noted that the Staff

Report stated that the road could eventually continue to Potomac Farms Drive, and suggested adding a sidewalk or continuing the bike path to the west side of the Sheetz.

- Questioned if this location would encourage tractor trailer traffic off of Shepherdstown bypass.
- Expressed concern about the impact of night lighting on the adjoining residential properties.

Mr. Shepp closed the public hearing.

Mr. Wallen addressed the concerns raised by explaining that related improvements were all the items included on the site plan but not listed individually, such as the carwash, storm water management, and infrastructure. He also stated that they had attempted to provide a pedestrian crossing at this location but the WV DOH requested them to remove it from their plans. Mr. Wallen indicated there would be a road in the future for continuation along Potomac Farm Drive and that they are providing a sidewalk along that road. He indicated that their photometric plan for site lighting showed zero foot candles at the property lines to ensure it wouldn't impact the neighboring properties. As far as tractor trailers are concerned, there is no tractor trailer parking onsite and it shouldn't cause any significant increase in tractor trailer traffic other than deliveries.

Mr. Wallen also responded to other concerns in Mr. Pugh's written correspondence. Mr. Wallen explained the footprint is only about 53% impervious so it is fairly small. He indicated that this project has been vetted a couple of times.

Mr. Stolipher moved to approve the Site Plan as submitted with the condition that staff won't sign the documents until the permits numbers are placed on the plan. Mr. Hefestay seconded, which carried unanimously.

Mr. Hefestay mentioned that this project had been reviewed three times and these comments would have been more appropriate at the beginning. Mr. Shepp agreed and summarized that it would be difficult if not impossible for the applicant to incorporate these comments at this late stage without significant costs to the applicant.

4. **Public Hearing:** Request to lift the single family restriction from Lot 1 of the Trough Bend Subdivision (PC File 01-05: Note #4), to allow for the construction an in-law suite in the basement of a new home for a family member. Owner: Lutman Land Development. Property Location: Vacant parcel on Trough Bend Road, Shepherdstown, WV. Tax District: Shepherdstown (09); Tax Map: 12; Parcel: 11.14; Size: 10.11 ac; Zoning District: Rural; File: 21-11-Q.

Ms. Brockman summarized the request and explained why the Planning Commission action was required.

Mr. Shepp opened the item for public comment. No one had public comment. Mr. Shepp closed the item for public comment.

Mr. Hefestay moved to approve lifting the single family restriction. Mr. Thomas seconded the motion, which carried unanimously.

5. **Public Hearing:** Request to lift the single family restriction from Lot 1 of the John Orndorff Minor Subdivision (PC File 94-11: Note #3), to allow for the construction of a 3 bedroom/2 bath house with 1 bedroom/1 bath in-law suite. Owner: Nicole Picciotto. Property Location: John Orndorff Minor Subdivision (Elmwood Farm), Lot 1, Peaceful Breeze Ln, Shepherdstown, WV; Tax District: Shepherdstown (09); Tax Map: 12; Parcel: 8; Size: 12.99 ac; Zoning District: Rural; File: 21-12-Q.

Applicant was not present. This item was skipped until after item #6 was heard by the Planning Commission.

As the applicant was not present to provide testimony, Mr. Shepp moved to postpone this item until the September 14, 2021 meeting. Mr. Louthan seconded the motion, which carried unanimously.

6. **Public Hearing:** Request for a waiver from Section 20.201.A.2 of the Subdivision Regulations to allow a 6th lot to access a 50' access easement (Fennec Fox Lane), which was created as a part of a minor subdivision serving the maximum 5 lots. Owner: Lutman Land Development LLC. Property Location: 7029 Flowing Springs Road and Fennec Fox Lane, Shepherdstown, WV. Tax District: Shepherdstown (09); Map: 17; Parcel: 4.8; Size: 1.54 acres; Zoning District: Rural. File: 21-13-PCW.

Ms. Brockman provided a summary of the request and the complex history of the creation of this access, noting which lots were authorized to use it. There are now five lots that use this access easement. This request is to allow a 6th lot to use this access.

Mr. Lutman provided an overview of the request to the Commission, pointing out that the lot in question is crossed by the 50' access easement in question and it seems reasonable that this lot could use this access. He also noted that the Fennec Fox access easement is a safer access to Flowing Springs Road.

Mr. Shepp opened the public hearing.

Ms. Katie Fry, Shepherdstown resident, spoke in support of the request; however, she requested that the applicant pay into the road maintenance agreement, which is \$150 initially and \$75 after the initial year.

Mr. Brian Leuters, Shepherdstown resident, spoke in support of the request; however, he explained that they are updating the covenants to address the two different builders. He indicated that he would like Lutman Land Development to participate in the covenants.

Shaun and Holly Alessi, Shepherdstown residents, spoke in support of the request; yet, expressed concern regarding any construction equipment in the easement and participating in the covenant agreement.

Mr. Shepp closed the public hearing.

Mr. Lutman explained that while he was not the original developer, that he had paved the road a few years ago. Mr. Lutman stated that if there was clear evidence that he damaged the road during construction, that he would repair it. Further, Mr. Lutman proffered to require the property owner to participate in the road maintenance agreement.

Mr. Stolipher moved to approve the waiver with the requirement that the lot pay a 1/6th equal share into the road maintenance agreement, without requiring the participation in the covenant agreement. Mr. Thomas seconded the motion, which carried unanimously.

7. **Review and Approval:** Planning Commission's FY 2021 Annual Report to the County Commission per WV Code §8A-2-11. The Planning Commission is required by State Code to make an annual report to the appropriate governing body concerning the operation of the planning commission and the status of planning within its jurisdiction.

Ms. Brockman summarized the report and explained this is a compilation of all quarterly reports.

Mr. Hefestay moved to send the Annual Report to the County Commission. Mr. Knott seconded the motion, which carried unanimously.

Mr. Shepp requested that Ms. Brockman present any items from the Planner's Report at this time in case they go into Executive Session under the Report from Legal Counsel.

9. Planner's Report

Ms. Brockman informed the Commission of an Ethics Training occurring on August 11, 2021 and that the next regularly scheduled meeting would be September 14, 2021.

8. Reports from Legal Counsel

Mr. Cochran reported to the Planning Commission that a lawsuit had been filed by Jefferson County Vision against the Planning Commission and stated that he would recommend that the Commission go into Executive Session to receive legal advice on this matter.

Mr. Stolipher moved to go into Executive Session at 7:39 pm to receive legal advice from the attorney on Jefferson County Circuit Court Civil Action No. 21-C-109. Mr. Hefestay seconded the motion, which carried unanimously.

Mr. Hefestay moved to come out of Executive Session at 8:11 pm. Mr. Knott seconded the motion, which carried unanimously.

Mr. Shepp authorized Mr. Cochran to prepare a response to Jefferson County Circuit Court Civil Action No. 21-C-109.

Mr. Cochran requested that Mr. Shepp schedule a special meeting to discuss legal matters. The Planning Commission agreed to schedule a ZOOM only meeting for August 24, 2021 at 7:00 pm to discuss only legal issues.

10. President's Report. None.

11. Actionable Correspondence. None.

12. Non-Actionable Correspondence. None.

Mr. Hefestay moved to adjourn the meeting at 8:12 pm. Mr. Louthan seconded the motion, which carried unanimously.

These minutes were prepared by Alice Johns, Planning Clerk.