

Meeting Minutes
Jefferson County Planning Commission
December 14, 2021

The Jefferson County Planning Commission met on December 14, 2021 at 7:00 pm with the following Planning Commission members present in person: Mike Shepp, President; Jack Hefestay, Matt Knott, and Steve Stolipher, County Commission Liaison.

The following members were present via ZOOM: Wade Louthan, Secretary and J. Ware.

The following members were absent with notice: Donnie Fisher, Vice President, Shane Roper, and Ron Thomas.

Staff members present included Jennifer Brockman, County Planner; Alexandra Beaulieu, Zoning Administrator (ZOOM); Jonathan Saunders, County Engineer (ZOOM), Nathan Cochran, Assistant Prosecuting Attorney; and Will Rohrbaugh, County's legal representative.

The Planning Commission meeting was held as a hybrid meeting. The ZOOM meeting information was made available on the agenda and packet, which were posted to the County website.

Mr. Shepp called the meeting to order at 7:00 pm. and confirmed that a quorum was present. Mr. Shepp stated that Agenda Item #9 would be heard before Agenda Item #6.

1. Approval of the following meeting minutes:

Hearing no objection, Mr. Shepp approved the November 9, 2021 and December 7, 2021 minutes as presented.

2. Request for postponement. None.

3. Public Hearing: Request for a waiver of Section 20.201A.2, to reduce the access width from 50' to approximately 14' for the purpose of creating one additional lot on the existing Hollow Tree Drive. Applicant: Patricia Greenley. Property Owner: Laurice Berry. Property Location: 137 Hollow Tree Drive, Summit Point, WV. Parcel ID: 06019A00010001; Size: 11 acres; Zoning District: Rural. File: 21-20-PCW.

Ms. Brockman provided an overview of her staff report. Ms. Greenley, applicant, stated that she didn't have anything to add to Staff's overview.

Mr. Shepp opened the public hearing.

Mr. Jimmy Palmer, 91 Hollow Tree Drive, spoke in opposition to the request and noted that he thought the public notice sign was not in an appropriate location. Mr. Palmer passed around photos of the property to the Planning Commission members.

No additional members of the public were signed up to speak for this item. Mr. Shepp closed the public hearing.

Ms. Greenley provided a rebuttal stating that the public notice placard had been posted in accordance with posting requirements. She stated that she had spoken with several neighbors who did not object to the request.

Mr. Stolipher made a motion to approve the request as presented. Mr. Hefestay seconded the motion, which carried unanimously.

4. Public Hearing: Request for a waiver of Section 20.201 of the Subdivision Regulations, to process the first five (5) lots (out of the maximum of seven (7) lots) of a Cluster Subdivision as a Minor Subdivision. Property Owner/Applicant: Secatello Contracting LLC; Property Location: 4590 Bowers

Road, Kearneysville, WV. Parcel ID: 07000500020000; Size: 48 ± acres; Zone: Rural. File: 21-21-PCW.

Mr. Shepp recused himself from the meeting for this item, stating he had a conflict of interest. Mr. Shepp vacated the room during discussion of this item.

Mr. Knott presided over the meeting in Mr. Shepp's absence.

Ms. Brockman provided an overview of her staff report. Mr. Paul Raco, applicant's representative, was present to represent the request and provided an overview of the request.

Mr. Knott opened the public hearing. There was no public comment. Mr. Knott closed the public hearing.

Mr. Hefestay motioned to approve the request as presented. Mr. Stolipher seconded the motion, which carried unanimously.

Mr. Shepp re-entered the room at 7:22 p.m. and presided over the remainder of the meeting.

5. **Public Hearing:** Request for a waiver of Section 20.201A.2.b of the Subdivision Regulations, to allow Lot 10 to use River Bend Road as an entrance to the lot as it was permitted to do so in 1970. Property Owner/Applicant: H and G Catrow Contracting, LLC; Property Location: Vacant Parcel, Lot 10 Hidden River Farm Subdivision, River Bend Road and Wide Horizon Road, Kearneysville, WV. Parcel ID: 07001300440000; Size: 1.18 acre; Zone: Rural. File: 21-22-PCW.

Ms. Brockman provided an overview of her staff report. Mr. Paul Raco, applicant's representative, was present to represent the request and provided an overview of the request. Mr. Raco noted that access to River Bend Road was previously granted when the lot was originally created in 1970. Mr. Raco noted that River Bend Road is a private (not State) road and that an entrance permit from the Division of Highways would not be required.

Mr. Shepp opened the public hearing. There was no public comment. Mr. Shepp closed the public hearing.

Mr. Knott motioned to approve the request as presented. Mr. Hefestay made an amendment to the motion to include Staff's recommended condition that Lot 10 will need to participate in any local road maintenance agreement including the cost and expense of maintaining the private road and easement, including snow removal. Mr. Knott accepted the amendment with the addition that the condition applies only if a road maintenance agreement exists. Mr. Stolipher seconded the amended motion, which carried unanimously.

9. **Discussion and Possible Recommendation:** Recommendation to the County Commission regarding the proposed *Envision Jefferson 2035 Comprehensive Plan* (approved 01/14/15) Text Amendment regarding solar facilities in the rural and residential zoning districts. The Public Hearing was held by the Planning Commission on December 7, 2021.

Mr. Cochran asked Ms. Brockman to confirm that a Public Hearing was held on the subject amendment. Ms. Brockman confirmed that a Public Hearing was held on December 7, 2021. Mr. Cochran asked Mr. Knott if he had an opportunity to review the meeting recording since he was not in attendance on December 7, 2021. Mr. Knott verified that he had listened to the recording prior to the [12/14/21] meeting.

Ms. Brockman provided an overview of the changes included in the proposed amendment to the Comprehensive Plan.

Mr. Shepp made the following motion:

“The Planning Commission has reviewed the information that has been presented by the staff and the public during the course of this amendment. The study titled ‘Solar Power: Review of Existing Conditions and Services and Probable Future Changes in Jefferson and Surrounding Counties’, prepared by Potesta & Associates has been especially helpful, and the Commission adopts and finds that the information collected and reviewed reflects many of the existing conditions and probable future changes that may occur in Jefferson County related to the solar power issue.

For the foregoing reasons, in accordance with W.Va. Code §8A-3-11-3-6 and related statutes, I move to:

- approve the proposed text amendment to the Jefferson County *Envision Jefferson 2035 Comprehensive Plan* to clarify that solar facilities are principal permitted uses in the rural and residential zoning districts;
- to direct staff to submit the amendment to the Jefferson County Commission for consideration and potential adoption on January 6, 2022; and
- to authorize the president or his designee to present the Comprehensive Plan Amendment to the Commission on January 6, 2022.”

Mr. Hefestay seconded the motion, which carried unanimously.

Mr. Cochran confirmed that Mr. Ware and Mr. Louthan voted in favor of the motion via ZOOM.

- 6. Discussion and Action for a Zoning Map Amendment Request:** Planning Commission review and recommendation to the County Commission regarding whether the petition for a Zoning Map Amendment to rezone the subject parcels from Village to General Commercial is consistent with the *Envision Jefferson 2035 Comprehensive Plan*. Owner/Applicant: John Morris. Property Location: 16, 30, and 36 Old Leetown Road, Kearneysville, WV. Tax District: Middleway (07), Map: 11; Parcels: 2.1 and 2.2. Combined acreage: 1-acre. Zoning District: Village. File: 21-4-Z.

Ms. Brockman provided an overview of her staff report, noting that the property contained significant floodplain area on the property and that commercial development was not permitted within the floodplain area. Ms. Brockman stated that Staff did not find the request to be rezoned to General Commercial to be consistent with the Comprehensive Plan but advised that it was the Planning Commission’s role was to make a recommendation to the County Commission.

Mr. Shepp inquired as to whether the property owner was present. The applicant was not present. Mr. Stolipher said that the applicant indicated that the Planning Commission could call him if additional information was required.

Mr. Shepp made a motion that the Planning Commission finds that the request is not compatible with the Comprehensive Plan and requested that the County Commission or applicant consider requesting a different zoning district and return the request to the Planning Commission. Mr. Hefestay seconded the motion, which carried unanimously.

- 7. Discussion and Action:** For the Planning Commission to vote to approve or deny the Milton’s Landing Preliminary Plat Application as complete in accordance with Sections 24.113 and 24.114 of the Subdivision Regulation, for the purpose of scheduling a Public Hearing for this application. Property Owner: Lutman Land Development. Property Location: Parcel ID: 02001100300002; Size: ~65 acre; Zone: Residential Growth. File: 21-22-SD.

Ms. Brockman provided an overview of her staff report, noting that there were several outstanding comments that needed to be addressed before the plans could be deemed complete. Mr. Gerhart, applicant's representative, provided an overview of the request, noting that he believed the items could be addressed prior to the Public Hearing. It was noted that the Public Hearing could be postponed if the outstanding comments were not addressed.

Mr. Stolipher motioned to deem the application as complete for the purpose of scheduling a public hearing on January 11, 2022. Mr. Knott seconded the motion, which carried unanimously.

- 8. Planning Commission Budget Discussion:** The Director of Engineering, Planning and Zoning, Roger Goodwin, has to prepare the Department's draft FY2022-2023 Budget by the end of December 2021. This is the opportunity for the Planning Commission to provide input into this budget, including the upcoming update to the Comprehensive Plan, which should be initiated in early 2023. Any budget request needs to include the item, purpose or justification, if it is an item that is needed due to state code (if so, the section of state code), and the budget amount requested.

Mr. Shepp stated that Mr. Knott and Mr. Hefestay agreed to serve on a budget committee with him. Mr. Shepp requested that Staff schedule a meeting with Mr. Goodwin and requested that a copy of the draft budget be sent to the committee. Ms. Brockman stated that the Planning Commission should consider what else may need to be included in the budget since the current budget is primarily for staff, materials and supplies, and legal notice expenditures.

10. Reports from Legal Counsel

- a. Discuss and review Jefferson County Circuit Court Civil Action No. 2021-C-109.
- b. Review of Zoning Text Amendment File #ZTA19-03 related to solar energy facilities, including discussion of Jefferson County Circuit Court Civil Action No.'s 2021-C- 33 through 37 and Jefferson County Circuit Court Civil Action No.'s 2021- C-46 through 50, and WV Supreme Court No.'s 21-0727, 21-0728, and 21-0731.
- c. Report by counsel regarding Comprehensive Plan Amendment and related issues.

Mr. Shepp made a motion to go into executive session for the purpose of receiving legal counsel on Civil Action No. 2021-C-109 and review of a Supreme Court case and a possible proposed settlement, and to receive legal advice on those items. Mr. Stolipher seconded the motion, which carried unanimously (8:14 p.m.).

Mr. Shepp made a motion to come out of executive session at 8:54 p.m. Mr. Hefestay seconded the motion, which carried unanimously.

11. Planner's Memo. None.

12. President's Report. None.

13. Actionable Correspondence. None.

14. Non-Actionable Correspondence. None.

Mr. Hefestay motioned to adjourn the meeting at 8:55 p.m. Mr. Knott seconded the motion, which carried unanimously.

These minutes were prepared by Alexandra Beaulieu, Zoning Administrator.