

Meeting Minutes  
Jefferson County Planning Commission  
January 11, 2022

The Jefferson County Planning Commission met on January 11, 2022 at 7:00 pm with the following Planning Commission members present via ZOOM: Mike Shepp, President; Donnie Fisher, Vice President; Jack Hefestay, Ron Thomas, and Steve Stolipher, County Commission Liaison. The following members entered the meeting via ZOOM at 7:05 pm: Matt Knott, J. Ware, and Wade Louthan.

The following member was absent with notice: Shane Roper.

Staff members present via ZOOM included Jennifer Brockman, County Planner; Alexandra Beaulieu, Zoning Administrator; Tanya Lyons Planning Clerk ; Jonathan Saunders, County Engineer; and Nathan Cochran, Assistant Prosecuting Attorney.

The Planning Commission meeting was held as a ZOOM only meeting. 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 #4 would be heard later in the meeting at the request of the applicant.

**1. Election of Planning Commission Officers**

Steve Stolipher and Jack Hefestay nominated Mike Shepp for President. Donnie Fisher and Steve Stolipher nominated Matt Knott for Vice President. Mike Shepp and Ron Thomas nominated Wade Louthan as Secretary.

The Planning Commission Officers were approved by unanimous decision.

**2. Approval of the following meeting minutes**

Hearing no objection, Mr. Shepp stated that the December 14, 2021 and January 4, 2022 minutes were approved as presented.

**3. Request for postponement. None.**

**4. Public Hearing:** Request for a waiver of Section 20.201A.2 to reduce the width of a required access easement from 50' to 40'; and, to allow for the creation of two additional lots on Woodbury Drive to process as a minor subdivision. Property Owner: Sandra Phillips. Property Location: 387 Woodbury Drive, Kearneysville, WV. Parcel ID: 07000800030019; Size: ~27 acres; Zoning District: Rural. File: 21-23-PCW.

Hearing moved until after item #8 at request of applicant's consultant.

**5. Public Hearing:** Final Plat Public Hearing for Aspen Greens Subdivision, Phase IIB for Lots 47 – 85, and Residue. Applicant: Fred Gates, Gates Associated. Property Owner: Maurice Gladhill, Roderick Planes, LLC. Property Location: Aspen Greens Subdivision, residue parcel located off Wintergreen Way. NE of the intersection of Routes 24 (Old Country Club Rd.) & 17 (Flowing Springs Rd.), Charles Town, WV. Parcel ID: 02000400190000; Size: 77.42 acres; Zoning District: Rural. File: 20-1-SD.

Jennifer Brockman described the location of this request and presented an overview of her staff report.

Mr. Fred Gates, Gates Associated, Inc., stated that this phase of Aspen Greens includes 39 lots and the full bond applied was posted when they received approval for early grading. He stated that the project has no outstanding comments.

Mr. Maurice Gladhill, Manager, Roderick Planes, LLC, had no additional comments but stated that they were eager to move forward with the project.

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

Mr. Steve Stolipher moved to approve the final plat as submitted; Jack Hefestay seconded the motion, which carried unanimously.

- 6. Public Hearing:** Final Plat Public Hearing for Beallair Subdivision, Phase 3-Residential, Lots 203-233, 273-275, 283-304, Residue Parcels A & F. Applicant: Piedmont Design Group, LLC. Property Owner: Beallair Homes, LLC. Property Location: Beallair Subdivision, residue parcel located off Beallair Manor Dr. / Claymont Hill St. / Clover Lea Way / Lewis Washington Dr., Charles Town, WV Parcel ID: 040010RESA; Size: +60 acres; Zone: Residential Growth. File: 21-31-SD

Jennifer Brockman presented the overview of her staff report related to Phase 3- Residential for Beallair Subdivision.

Mr. Mike Wiley, engineer/surveyor for Beallair Homes, LLC stated that he has no concerns about the outstanding staff comments and is hopeful that the Final Plat can be approved.

Mr. Shepp opened the public hearing. There were no public comments. Mr. Shepp closed the public hearing.

Jack Hefestay made a motion to approve the final plat as presented; Matt Knott seconded the motion.. Mr. Fisher suggested amending the motion to approve the final plat with staff conditions; which both Mr. Hefestay and Mr. Knott agreed to. The motion was approved unanimously.

- 7. Public Hearing:** Preliminary Plat Public Hearing for Milton's Landing Subdivision consisting of 50 single family detached lots to be served by well and septic systems. Property Owner: Lutman Land Development. Property Location: Vacant parcel located 0.3 miles west of the Summit Point Rd (WV13)/ Middleway Pike (WV51) intersection, Charles Town; Parcel ID: 02001100300002; Size: ~65 acre; Zone: Residential Growth. File: 21-22-SD.

Jennifer Brockman explained that under the newer Subdivision Regulations, the Public Hearing is at the Preliminary Plat stage. She also provided an overview of her staff report and described how the applicant had addressed outstanding drainage/stormwater concerns that had been discussed at the December Planning Commission meeting. Mr. Jason Gerhart, Integrity Federal Services (IFS) consultant for the Milton's Landing Subdivision, explained that the way the applicant addressed the need to separate the septic reserve areas from the stormwater management areas was to eliminate Lot 17 for use as a bioretention facility. Mr. Gerhart also noted that the applicant had received verbal approval of their entrance from WV Division of Highways (DOH) but were still waiting to receive their approve Highway Entrance Permit.

Mr. Dave Lutman, applicant, stated that he is available if the Planning Commission has any questions and reported that he had posted the required DOH bond and is awaiting the permit

Mr. Shepp opened the Public Hearing.

- Mr. Corey Lewis, 8554 Summit Point Rd, asked a number of questions about wells/septic systems located on the karst geology; proposed water use restrictions; the proposed builder, the price point and design of the homes, if an HOA is required; if there is a Traffic Study; and related to a Civil War marker on his property?

- Christine Marshall, 209 Oakwood Dr, asked a number of questions regarding outstanding issues from the December meeting; were all the drainage issues resolved; about the location of utility easements; who will own Lot 17 and who will own the stormwater structures; asked for information about the karst preservation easements; questioned if the wells located in the storm sewer easements could be damaged?

Mr. Lutman, the applicant, responded to the questions asked:

- All wells and on-site septic are approved by Health Department;
- WV DOH approves the access point/entrance; Traffic Impact Studies are only required for developments over 100 houses
- Max building height in the RG zone is 40' but these houses will average 2t-32' in height;
- Public water and Sewer would allow 180-200 houses to be built on this site;
- The 100' well radius only applies to septic systems and reserve areas; houses are only required to be 10' from a well
- Lot 17 is to be used for bioretention.

Mr. Gerhart further explained engineering questions noting that all stormwater/drainage plans and easements meet all county and state regulations; and explained that the karst preservation easements are shown to limit improvements in the designated areas, especially grading and new impervious areas.

Mr. Shepp closed the Public Hearing.

Mr. Jack Hefestay made a motion to accept the Preliminary Plat as presented, provided the WV DOH permit is received; Mr. Steve Stolipher seconded the motion, which passed unanimously.

- 8. Public Hearing:** Waiver from Section 20.203B of the Subdivision Regulations, which requires a Site Plan when the footprint of any addition or a new structure (building and/or parking lot) is greater than 1,200 square feet. The applicant is requesting to waive the requirement of a site plan to convert an existing tennis court into a Brewery. Property Owner: Matt and Laura Knott. Property Location: 408 Allstadt's Hill Road, Harpers Ferry, WV. Parcel ID: 04000900690000; Combined Size: 4.64 ac; Zoning District: Residential-Light Industrial-Commercial. File: 21-24-PCW.

Mr. Knott, the applicant, indicated that he will stay present for the presentation and public comment, but will recuse himself prior to any action by the Planning Commission.

Ms. Brockman provided an overview of the proposed use and the location of the existing tennis courts, and deferred to engineering to explain the site plan requirements. Mr. Jonathan Saunders discussed the no "site plan" criteria and why the engineering staff determined that the application cannot administratively be deemed to meet the 1200 square foot criteria.

Mr. Knott, the applicant, explained that the application is a request to allow the redevelopment of the existing tennis courts into a brewpub of approximately 10,000 square ft. He wants to use whole impervious area for future porch area/outdoor seating. Mr. Knott recused himself from the rest of this agenda item because he owns the property. He left the ZOOM meeting room completely.

Mr. Shepp opened the Public Hearing. There were no public comments. Mr. Shepp closed the Public Hearing.

Mr. Steve Stolipher made a motion to approve the application as submitted; Mr. Ron Thomas seconded it. The motion was approved unanimously.

Mr. Shepp confirmed that the applicant's representative was present for agenda item #4

- 4. Public Hearing:** Request for a waiver of Section 20.201A.2 to reduce the width of a required access easement from 50' to 40'; and, to allow for the creation of two additional lots on Woodbury Drive to process as a minor subdivision. Property Owner: Sandra Phillips. Property Location: 387 Woodbury Drive, Kearneysville, WV. Parcel ID: 07000800030019; Size: ~27 acres; Zoning District: Rural. File: 21-23-PCW.

Jennifer Brockman provided an overview of the project location and the waiver request.

Mike Roberts, surveyor for the applicant, provided some detail regarding the request to allow two additional lots to access the existing paved road (Woodbury Drive) which is 18' wide within a 40' right-of-way. He clarified that Woodbury Drive is off of Leetown Road.

Mike Shepp opened the Public Hearing. The following members of the public commented:

- Mary Snyder, speaking for Garland Snyder, asked whether these lots will be part of the Woodbury Subdivision; will the lots contribute to the road maintenance agreement; what type of houses, style of home and prices are proposed?
- Dave Lutman, 12860 Leetown Rd, stated that he approves of the 2 lots and that Woodbury Road is adequate to handle the traffic for the two lots and thinks that it is beneficial for extra HOA dues to help keep the road maintained.
- Christine Marshall, Shepherdstown, questioned if the HOA needs to have any say in what is decided and would like to know what type of houses will be built; she also asked who the developer is.
- Tina Larrick, 763 Woodbury, states that the property in question abuts her property and expressed concern because she was told there would be no more development; she is concerned with the development noise/traffic.

Mr. Shepp closed the Public Hearing.

- Garland Snyder, 626 Woodbury, was allowed to add comments after the Public Hearing was closed. He expressed concern that the lots are not part of the Woodbury subdivision; is concerned with the traffic speed because of the horses and alpacas in the neighborhood and questioned whether the right-of-way at the end of the subdivision could be opened up.

Mike Roberts, consultant, was permitted to respond to the public comments. He stated that all lots will participate in the HOA maintenance agreement and the HOA if permitted; the homes will be custom homes on proposed 3+/- acre lots; Mrs. Phillips is the developer of the 2 lots; he stated that traffic will not be an issue due to the curve on the road which will slow it down.

Steve Stolipher made a motion to approved the waiver as presented; Donnie Fisher seconded it. The motion carried unanimously.

- 9. 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 Industrial-Commercial to Residential Growth is consistent with the Envision Jefferson 2035 Comprehensive Plan. Owner/Applicant: Arnold Holden. Property Location: NW of Shenandoah Road and Ridge Road, Shenandoah Junction, WV. Tax

District: Charles Town (02), Map: 1; Parcels: 29 and 45. Combined acreage: 76.22 acres. Zoning District: Industrial Commercial. File: 21-5-Z.

Ms. Brockman provided an overview of the application and the staff report which detailed the request and the relevant provisions of the *Envision Jefferson 2035 Comprehensive Plan*. She concluded that the staff found that the Holden Zoning Map Amendment request is **consistent** with the *Envision Jefferson 2035 Comprehensive Plan*.

Chad Wallen, consultant with Integrity Federal Services, presented the application on behalf of the applicant and stated that he agrees that the Residential Growth (RG) zoning category is consistent with the *2035 Comprehensive Plan*. He also noted that the nearby T.A. Lowery Elementary School was not built when the property was zoned Industrial-Commercial zoning.

Arnold Holden, applicant, noted that the Charles Town Utility Board (CTUB) is able to serve a residential development in this area due to a nearby force main and that Jefferson Utilities (JUI) can serve the proposed development with sewer due to the proximity to 12" sanitary sewer main.

Mr. Shepp stated that he agreed that the proposed zoning category is consistent with the *2035 Comprehensive Plan* and made a motion to recommend to the County Commission that the request is consistent with 2035 Comprehensive Plan. Jack Hefestay seconded the motion, which was approved unanimously.

**10. Discussion and Action for a REVISED 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 Residential-Light Industrial-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 the property and the revised request which was previously found to be inconsistent with the *2035 Comprehensive Plan*. The applicant revised the request from General Commercial (GC) to Residential-Light Industrial-Commercial (RLIC), which allows a mixture of residential and commercial uses. She also noted that in spite of the fact that the property is fairly small (one acre) and is impacted by a FEMA floodplain, staff found that the revised request is reasonably consistent with the *Envision Jefferson 2035 Comprehensive Plan* because it is shown as future "Mixed Use Residential/ Commercial" on the Future Land Use Guide and the proposed Residential-Light Industrial-Commercial zone allows this mixture of uses.

Mr. Shepp noted that it is possible to mediate the impact of the floodplain through building elevation. He then made a motion to recommend to the County Commission that the RLIC zoning category is consistent with the *2035 Comprehensive Plan*; Steve Stolipher seconded the motion; which was approved unanimously.

**11. Discussion and Approval:** Planning and Zoning Quarterly Report for FY 2021-2022 2nd Quarter for the County Commission

Ms. Brockman reminded the Planning Commission that these quarterly reports have been requested by the County Commission and include all activity of the staff, the Planning Commission and the Board of Zoning Appeals for the quarter. It requires Planning Commission action to forward to the County Commission. There were no questions.

Mr. Hefestay made a motion to forward the Quarterly Report to the County Commission; Mr. Louthan seconded; which passed unanimously.

**12. 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. Discussion regarding Comprehensive Plan Amendment and related issues.

No additional reports at this time

**13. Planner's Memo.**

Tanya Lyons, the new Planning Clerk, was introduced.

Ms. Brockman announced that the County Commission is holding its Public Hearing on the proposed text amendment to the *Envision Jefferson 2035 Comprehensive Plan* related to solar facilities on February 3, 2022 at 10:00 am.

The next Planning Commission meeting will be on February 8, 2022.

There was no budget update.

**14. President's Report.** None.

**15. Actionable Correspondence.** None.

**16. Non-Actionable Correspondence**

Mr. Hefestay motioned to adjourn the meeting at 8:30 p.m. Mr. Knott seconded the motion, which carried unanimously.

These minutes were prepared by Tanya Lyons, Planning Clerk.