

Meeting Minutes
Jefferson County Planning Commission
June 14, 2022

The Jefferson County Planning Commission met on May 17, 2022 at 7:00 pm with the following Planning Commission members present: Mike Shepp, President; Matt Knott, Vice President; Wade Louthan, Secretary; Steve Stolipher County Commission Liaison; Jack Hefestay; Ron Thomas (via ZOOM) and Shane Roper (via ZOOM). Donnie Fisher and J. Ware were absent with notice.

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

The Planning Commission meeting was held as a hybrid meeting. The hybrid 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.

1. Approval of the meeting minutes:

Hearing no objection, Mr. Shepp approved the May 17, 2022 and May 26, 2022 minutes as presented.

2. **Request for postponement.** Item # 6 Public Hearing Rock Ferry Station Lot 32 Final Plat Amendment was postponed at the request of the applicant for an unspecified future meeting
3. **Public Workshop:** Concept Plan for Stonecrest (FKA Green Hill) Major Residential Subdivision consisting of 320 Single Family Lots on Flowing Springs Rd. Applicant: DR Horton-Bill Sudeck; Property Owner: Flowing Springs Road, LLC.; Property Location: Flowing Springs Rd, east of Daniels Road, Charles Town, WV; Parcel ID: 02000300090000; Size: 104.98 acres; Zoning District: Residential Growth; File: 22-11-SD.

Mr. Jason Gerhart with IFS, consultant for the applicant, presented an overview of the proposed Major Residential Subdivision.

Ms. Brockman provided an overview of the staff report and presented the staff recommendations.

Mike Shepp opened the Public Workshop.

- Julia Lam, 408 Shade Tree Lane, spoke in opposition to the Stonecrest Subdivision Concept Plan with concerns of noise, traffic and contamination of the ground water because her house and her neighbors are on well and septic.

Mr. Gerhart responded that the Stonecrest development would be on public water and sewer and that the County stormwater requirements are substantial and will control the run off. Berms and landscaping are proposed along the eastern property line between the existing subdivision and proposed new construction.

Mr. Shepp proposed to close the Public Workshop. Mr. Louthan said that there was someone else requesting to speak.

- Matt Staubs, also of Shade Tree Lane expressed concern because he owns the last lot and is the lowest point on Shade Tree Lane. He is concerned that the stormwater drainage from the proposed subdivision will negatively affect his property.

Mr. Shepp closed the Public Workshop.

Mr. Louthan asked Mr. Saunders for any input he might have about the neighbors' stormwater concerns. Mr. Saunders stated that because this stage is just the concept plan, no detailed engineering plans have been submitted or finalized yet. The full engineered design will be submitted as a part of the Preliminary Subdivision Plat and will reflect what is proposed on the Concept Plan and the requirements of the Regulations.

Mr. Gerhart responded that they will meet all requirements of the County's Subdivision and Stormwater Regulations and will also have the proposed entrances approved by the WV Division of Highways (WV DOH) which will include required drainage plans, pipes and culverts.

Mr. Hefestay asked what the plans for green space in the subdivision included.

Mr. Gerhart responded by noting a large central open space area which will include space for open fields, tot lots etc. He also noted that the open space on the east side of the property will be a grass stormwater pond with an embankment and is not planned for active recreation.

Ms. Brockman presented staff responsibilities and recommendations. She also noted that the applicant has met the County requirements and staff will ensure all requirements are met during the plat review.

Ms. Anastasia Tabb asked to speak thru the Zoom portion of the meeting, but the public workshop had already been closed.

Mr. Stolipher stated that since the Concept Plan meets the County's requirements and that the preliminary plat will be reviewed for compliance with the engineering requirements when it is submitted, he moved to approve the plan as submitted. Mr. Hefestay seconded the motion, which carried unanimously.

4. **Public Workshop:** Concept Plan for Berryville Pike Telecommunications Tower consisting of 179' Monopole Telecommunications Tower (AT&T). Applicant: New Cingular Wireless (dba AT&T Mobility); Property Owner: 340 Rainbow LLC; Property Location: 3511 Berryville Pike; Parcel ID: 06001100010002; Size: 9.31 acres; Zoning District: Industrial-Commercial; File: 21-8-SP.

Ms. Brockman provided an overview of the staff report and explained the role of the Concept Plan and purpose of the Public Workshop. Ms. Brockman presented the requirements of the Regulations and stated that the applicant has met all the criteria.

Mr. Doug Sampson, representing the applicant, AT&T, provided an overview of the purpose of locating the cell tower at this location. He explained that the applicant wants to bring "First Net" to the area, which was created by Congress following the 9/11 attacks. It is a dedicated for first responders only.

- Mr. Donahue spoke for SBA who owns the existing cell tower located off Wheatland Road within a half mile of the proposed new site. He stated that this tower has the room on the tower for co-location for the First Net antennas. He stated that AT&T has not contacted them regarding the use of the current tower.

Mr. Doug Sampson responded to that the existing cell tower is not sufficient enough to manage all the new equipment that First Net need to run efficiently.

Mr. Shepp closed the Public Workshop.

Mr. Thomas asked the applicant about the use of the existing vegetation as the proposed buffer and asked if a fence will also be put up.

Mr. Sampson responded and said that the mature trees will stay and they would be happy to put a fence up and shrubs which will be included on the site plan submission stage.

Mr. Stolipher moved to approve the plan as submitted. Mr. Louthan seconded the motion and it was approved unanimously.

5. **Public Workshop:** Concept Plan for The Church of The Ascension site development which consists of 4 phases: Phase 1: a 10,338 sq. ft. church and 3,600 sq. ft. ancillary building for church related functions, required parking spaces, Stormwater Management facility and necessary utilities; Phase 2 (approximately 2 years): additional parking area; Phase 3 (approximately 5 years): cemetery area; Phase 4 (approximately 7-10 years): housing accommodations for church staff and/or missionaries. Applicant/Owner: Church Of The Ascension Property; Property Location: corner of Border Road and Bunkhouse Rd Kearneysville WV; Parcel ID: 07000400090000; Size: 20.49 acres; Zoning District: Rural; File: 22-3-SP.

Mr. Chris Waddell, Engineer with JHA Company, spoke on behalf of the Church of the Ascension. He discussed the proposed phased build out of the church property. He stated that the property will be served by public water and private on-site sewer services. The Church anticipates Phases 1 and 2 to be completed in the near future and Phases 3 & 4 to be constructed at a later date.

Ms. Brockman provided an overview of the staff report and explained the role of the Concept Plan and purpose of the Public Workshop. Ms. Brockman presented the requirements of the Regulations and stated that the applicant has met all the criteria. Ms. Brockman also noted that no comments had been received from the WV Division of Highways (WV DOH) at this time and that they may require entrances to be moved at that time.

Mr. Shepp opened the Public Workshop and the following members of the public spoke.

- Mr. Robert Cameron, Mr. Mike Dove and Ms. Sandra Armstrong all own houses and property that access Farm House Lane along the east side of this property. They expressed concerns about the potential stormwater impact on this private road and their properties.

Mr. Chris Waddell responded that all the stormwater drainage facilities will be on the Bunkhouse Rd side of the property and Farm House Lane should not be impacted. .

Mr. Shepp closed the public hearing.

Mr. Knott motioned to approve the Concept Plan as submitted. Mr. Hefestay seconded the motion, which was approve unanimously.

6. **POSTPONED- Public Hearing:** Rock Ferry Station Lot 32 Final Plat Amendment. This proposal is to modify the 300' conservation buffer area on Lot 32. Applicant: Clint Curtis; Property Owner Clint Curtis & Cassandra Maximin; Property Location: Vacant Parcel on Eagle Landing Rd Harpers Ferry, WV; Parcel ID: 06002200140032; Size: 3.26 acres; Zoning District: Rural; File: 22-4-FPA.

Mr. Shepp Item #6 has been postponed

7. **Public Hearing:** Request for waiver from Section 20.201B2 of the Subdivision Regulations, pertaining to the 5-year Family Transfer requirement. Applicant- Jeanine Jalil; Owner Aiman Jalil: Property Location: 229 Bethany Lane, Charles Town, WV; Parcel ID: 06002100070005; Size: 4.53 ac; Zoning District: Rural; File: 22-12-PCW.

Ms. Brockman provided an overview of the applicant's request and presented the staff's recommendation.

Ms. Jalil, the applicant, had no additional comments on the application.

Mr. Shepp opened the Public Hearing.

No one spoke regarding this application.

Mr. Shepp closed the Public Hearing.

Mr. Stolipher motion to approve as submitted. Mr. Louthan seconded the motion, which was carried unanimously.

8. **Public Hearing:** Request for waiver from Section 20.201 of the Subdivision Regulations, requesting to process a 6-Lot Subdivision as a minor subdivision instead of as a Major Cluster Subdivision development. Applicant/Owner: Wilbert & Sharon Kidwiler; Property Location: 1044 Kidwiler Rd, Harpers Ferry, WV; Parcel ID: 04000400270000; Size: 29.93 ac; Zoning District: Rural; File: 22-13-PCW.

Ms. Brockman provided an overview of the application and staff report, and presented the staff recommendations related to processing as a minor subdivision instead of a major subdivision

Mr. Ed Johnson, surveyor, represented the owner, Mr. Kidwiler (present), and stated that the request is for the approval of the 6th lot to be included in the minor process.

Mr. Shepp opened the Public Hearing. No one was signed up to speak.

Mr. Shepp closed the public hearing

Mr. Shepp reopened the public hearing at the request of a speaker.

- Ms. Carol Wood, Harpers Ferry, WV, asked about the impact that the approval of this request would have on the environment and asked if the existing habitat will be taken into consideration during this subdivision development.

Mr. Reese Clabaugh, realtor, spoke on behalf of the Kidwilers and the potential home builders. He stated that the builders are proposing four 2 – 2.5 acre lots and are going to work with the existing terrain. He also noted that the builders construct custom homes.

Mr. Louthan spoke and said noted that because they are building under the Cluster provisions of the Zoning Ordinance, there will also be 14 acres of green space required as well.

Mr. Shepp reclosed the public hearing.

Mr. Hefestay motioned to approve the waiver as submitted; Mr. Louthan seconded the motion.

Mr. Thomas asked the motion to be amended to include the requirement that the plat include notes that it is processing as a subdivision cluster requiring the 14.69 acres of greenspace and notes regarding the transfer of developmental rights.

Mr. Hefestay agreed to the proposed amendment; Mr. Louthan also agreed to the proposed amendment; and the motion was carried unanimously.

9. **Reconsideration of Waiver Request 22-7-PCW based on additional information provided by the applicant:** Request for waiver of Section 20.201A.3 to waive the requirement related to the extension of off-site utilities to allow for a proposed two lot minor subdivision. Applicant: Bob Franks, Sheetz, Inc. Property Owner: Guy Chicchirichi; Property Location: NE of US 340 & Augustine Ave. Intersection, Charles Town, WV; Parcel ID: 02001600010000; Size: 4.42 ac; Zoning District: Highway Commercial (3.02ac) Rural (1.4 ac);File: 22-7-PCW.

Mr. Stolipher recused himself from Items #9, 10 and 11 due to a conflict of interest.

Ms. Brockman provided an overview of the staff report explaining why the applicant requested reconsideration of a previously heard waiver and the additional information submitted for the Commission's consideration. She stated that it was previously not clear regarding the ability to connect to water and sewer in a manner that does not require the extension offsite. The applicant submitted additional information regarding the ability to connect to utilities.

Mr. Gerhart, IFS, representing the applicant, stated that it was not conveyed correctly in the previous

Planning Commission Public Hearing but, that the applicant will be connecting to water and sewer utilities on the site once the site plan is approved and Sheetz can purchase the property. Sheetz is ready to move forward as they feel they have met the requirements.

Mr. Shepp opened the public hearing. No members of the public spoke.

Mr. Shepp closed the public hearing.

Mr. Shepp made a motion to approve the waiver request as submitted; Mr. Knott seconded the motion and it was approved unanimously.

Based on that action, Mr. Gerhart requested that items #10 and #11 be withdrawn from the agenda.

Mr. Stolipher returned to the meeting.

10. **WITHDRAWN: Public Hearing:** Request for waiver of Section 24.113.B.10 to waive the requirement requiring an Archaeological Study for all Major Subdivision Preliminary Plats. Applicant: Bob Franks, Sheetz, Inc. Property Owner: Guy Chicchirichi; Property Location: NE of US 340 & Augustine Ave. Intersection, Charles Town, WV; Parcel ID: 02001600010000; Size: 4.42 ac; Zoning District: Highway Commercial (3.02ac) Rural (1.4 ac); File: 22-14-PCW.
11. **WITHDRAWN: Public Hearing:** Request for waiver of Appendix B, Section 2.2.C.1 related to the geometric and pavement design requirements of Table 2.2-1 Roadway Design Standards for inter-parcel subdivision roads. Applicant: Bob Franks, Sheetz, Inc. Property Owner: Guy Chicchirichi; Property Location: NE of US 340 & Augustine Ave. Intersection, Charles Town, WV; Parcel ID: 02001600010000; Size: 4.42 ac; Zoning District: Highway Commercial (3.02ac) Rural (1.4 ac); File: 22-15-PCW
12. **Public Hearing:** Request for a waiver of Section 20.102.B of the Subdivision Regulations, which requires subdivision plats to be approved by the Planning Commission, recorded, and surety posted for required improvements in accordance with these Regulations and the Comprehensive Plan, before development of the land is commenced. Applicant/Property Owner: DR Acquisitions LLC. (Kings Crossing) Property Location: West of Charles Town Road, South of St James Catholic Church; Parcel ID: 0200170022; Size: 86+ acres; Zoning District: Residential Growth. File 22-16-PCW.

Ms. Brockman provided an overview of the early grading waiver application and staff report.

Mr. Gerhart, IFS, representing the applicant, explained that the request for early grading is to allow the applicant to start over lot grading which will also allow the applicant to start receiving construction supplies on-site because of the wait and delivery schedules/times. The applicant intends to post the full Bond for the first phase to insure for both the developer and the county that this will be developed.

Mr. Saunders mentioned that the County does not have a specific guidelines for to allow early grading; however because the applicant is willing to put up the full bond to be able to start the early grading, staff is more comfortable with the request..

Mr. Shepp opened the public hearing. No public comment was received.

Mr. Shepp closed the public hearing.

Mr. Saunders stated that this is the first major residential subdivision to request early grading and that because the applicant is willing to post a full bond, the public and the county will be safe. Approval of this request will only allow erosion and sedimentation control/early grading. The staff recommendation was going to be denial, but because we have now received the DOH letter regarding approval of entrances, staff recommends to approval with the conditions in the staff report.

Mr. Stolipher made a motion to approve the waiver with the engineering staff's recommended conditions. Mr. Stolipher seconded the motion to approve the waiver with the conditions that Mr. Saunders, County Engineer presented. The motion was approved unanimously.

13. Discussion and Action: For the Planning Commission to vote to approve or deny either:

- a. The Augustine Avenue Sheetz Preliminary Plat Application as complete in accordance with Sections 24.113 and 24.114 of the Subdivision Regulations for the purpose of scheduling a Public Hearing. File: 22-17-SD (Subdivision); **OR**,
- b. The Augustine Avenue Sheetz Major Site Plan Application as complete in accordance with Sections 24.122 and 24.123 of the Subdivision Regulations for the purpose of scheduling a Public Hearing. File: 21-4-SP (Site Plan).

Applicant: Bob Franks, Sheetz, Inc. Property Owner: Guy Chicchirichi; Property Location: NE of US 340 & Augustine Ave. Intersection, Charles Town, WV Parcel ID: 02001600010000; Size: 4.41 ac; Zoning District: Highway Commercial/Rural.

Mr. Stolipher recused himself due to a conflict of interest.

Ms. Brockman reminded the Planning Commission that state law requires that the Planning Commission to deem either the Major Subdivision or Major Site Plan as complete for the purpose of scheduling a public hearing. Action by the Planning Commission at tonight's meeting will allow it to be placed on the July meeting with the required public notice.

Mr. Knott made a motion to deem the Major Site Plan application as complete for the purpose of scheduling a Public Hearing at the Planning Commission's July 12th meeting. Mr. Hefestay seconded the motion and it was approved unanimously

Mr. Stolipher returned to the meeting.

14. Update on Zoning Ordinance text amendment File# ZTA22-01 related to Solar Energy Facilities.

Ms. Beaulieu provided the Planning Commission with an overview of the status of the Solar Energy Facility text amendment. The County Commission Public Hearing was held on June 8, 2022 and action is expected to occur on June 16, 2022.

15. 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.

Mr. Cochran recommended to go into Executive Session for legal counsel.

Mr. Shepp moved to go into Executive Session for the purpose of receiving legal advice from counsel regarding items a and b under Item #15 "Reports from Legal Counsel".

Mr. Stolipher seconded the motion, which carried unanimously.

Mr. Stolipher and Mr. Roper recused themselves due to a potential conflict of interest.

Mr. Shepp requested a motion to come out of executive session. Mr. Louthan made the motion; Mr. Knott seconded the motion, which carried unanimously

16. Planner's Memo- Next meeting July 12, 2022

Matt Knott stated that he would not be present at this meeting.

17. **President's Report** - None

18. **Actionable Correspondence** - None

19. **Non-Actionable Correspondence** - None

Mr. Shepp motioned to adjourn the meeting; Mr. Hefestay seconded the motion, which carried unanimously. The meeting was adjourned at 8:30pm.

These minutes were prepared by Tanya Lyons, Planning Clerk.