

Meeting Minutes  
Jefferson County Planning Commission  
September 13, 2022

The Jefferson County Planning Commission met on September 13, 2022 at 7:00 pm with the following Planning Commission members present: Mike Shepp, President; Wade Louthan, Secretary; Steve Stolipher County Commission Liaison; Jack Hefestay; Donnie Fisher; Ron Thomas (via ZOOM) and Shane Roper (via ZOOM). Matt Knott, 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; 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. Mr. Roper noted that he would be recusing himself from items 5, 6, and 7.

**1. Approval of Meeting Minutes: August 09, 2022**

Due to Audio Issue during last month's meeting, it was noted that Ron Thomas had voted "no" on the sidewalk waiver on Item # 4 Miller Station apartments which needs to be reflected in the amended minutes.

Mr. Shepp stated that the minutes stand approved as amended.

**2. Request for postponement. Item #4 has been postponed by the applicant until 10/11/22.**

**3. Public Hearing: Request for waiver from Section 20.203B2 to waive a site plan requirement to allow a construction of a 1,274 square foot apartment building and a 300'+/- gravel driveway. Applicant/Property Owner: Susquehanna Properties LLC/Doug Porter ; Property Location: 14956 Charles Town Rd, Charles Town; Tax District: Charles Town (02), Map: 0017, Parcel: 19; Size: 0.94 acres; Zoning District: Residential/Light Industrial/Commercial; File: #22-18-PCW.**

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

The applicant, Mr. Doug Porter, described his proposed 3-unit 2 bedroom townhouse structure and why he chose to locate it on the rear of the property.

Mr. Shepp opened the Public Hearing. There was no public comment.

Mr. Shepp closed the Public Hearing

Mr. Saunders responded to Planning Commissioner questions related to the potential stormwater management impact that approval of this waiver would have on the neighboring properties. Mr. Saunders noted that the Engineering staff recommends an evaluation of the potential stormwater impact by an engineer.

Mr. Shepp discussed with Mr. Saunders if he would be comfortable reviewing the stormwater analysis if the waiver is approved with that condition.

Mr. Shepp made a motion to approve the waiver of the Site Plan provided that an engineering evaluation of the stormwater impact was completed and submitted to Mr. Saunders for approval, Mr. Hefestay seconded the motion, which was approved unanimously

**4. POSTPONED to October 11, 2022 Planning Commission Meeting: Public Hearing:**

Country Club Commons Preliminary Plat to create 4 non-residential lots and a public street for future commercial pad-users. Property Owner: B.C. Partners, INC. Property Location: Vacant NE Corner of Route 24 and Route 340; Parcel ID: 04001100110000; Size: 9.54 acres; Zone: Residential/Light Industrial/Commercial (RLIC). File: #19-17-SD

- 5. Public Workshop:** Concept Plan for the Wild Hill Solar Energy Facility. The applicant, Wild Hill, LLC, is proposing a 92.5 megawatt solar electric generating facility to be located on approximately 841 acres. The project will consist of rows of solar modules which are installed in arrays dispersed throughout the leased land. The project will also include construction of a new substation that will connect the solar energy facility with the existing 138-kilovolt overhead electrical transmission line passing through the southeast corner of the project area. (PC File #22-9-SP).

Property Owners/Location/ID/Size/Zoning District:

- Clarence & Donna Hough; Vacant parcel east of the property located at 1343 Roper North Fork Rd, Charles Town; Parcel ID: 06001100070001; Lot Size: 107.38 ac / Project Size: 107.38 ac; Zone: Rural
- Zigler, Inc.; 1079 Roper North Fork Rd., Charles Town; Parcel ID: 06000400090000; Lot Size: 350.95 /Project Size: 350.95; Zone: Rural
- John Samuel & Alice Rissler Estate; 616 Uinta Farm Ln., Charles Town; Parcel ID: 02001600060000; Lot Size: 293.33 / Project Size: 120.56 ac; Zone: Rural
- Clarence & Donna Hough; Vacant parcel north of the property located at 340 Old Shennandale Rd., Charles Town; Parcel ID: 06000500060000; Lot Size: 49.04 ac / Project Size: 49.04 ac; Zone: Rural
- T. Todd & Susan Hough, Trustees; 340 Old Shennandale Rd, Charles Town; Parcel ID: 06000500010000; Lot Size: 206.84 ac / Project Size: 181.70 ac; Zone: Rural
- Charles & Marie Hough, Life; 620 Old Shennandale Rd, Charles Town; Parcel ID: 06001100080000; Lot Size: 118.05 ac / Project Size: 32.11 ac; Zone: Rural

A Conditional Use Permit for the 262.85 acre portion of the project located outside of the Charles Town Urban Growth Boundary was approved by the Board of Zoning Appeals 8/25/22 (File: #22-5-CUP).

Ms. Brockman provided an overview of the staff report and reminded the Planning Commission that this project was also the subject of a Public Workshop in 2020.

Mr. Paul Raco, consultant for the applicant, and Mr. Chris Sternhagen, with EDF Renewables from Minnesota, presented the proposed site layout for the Wild Hill Solar Energy Facility. Mr. Raco presented a power point presentation of the overall procedures and the previous approvals including approval from the WV Division of Highways (WVDOH). The applicants are proposing a contract to use these properties for 30 years, with the contract beginning in 2024. After the thirty years, the project is proposed to be decommissioned and the land will return to farmland.

Mr. Shepp opened the Public Workshop.

Mr. Shepp asked Ms. Brockman to review the purpose and process for a Public Workshop. The following members of the public spoke:

- Matt Ridgeway (Remax Group), 109 David Ct, Kearneysville: As a real estate agent he supports the proposed solar energy facility and sees it as a way to maintain the land as “open space” for the 30 year period. He considers it a good temporary use of the land.
- Debbie Wilson, 1050 Avon Bend Rd: Questions related to whether this proposed facility plans to expand; what the panel installation process is; if there is impact on local wells; who would be employed; and whether the energy will be used locally?
- Travis and Monica Rider, 229 Birch Drive: Questions related to the hazardous waste disposal plan and where the panels will be disposed of.
- Steven Welch, 928 King Lear Dr, Avon Bend: Stated that the rural character and appearance of the County is important and that solar panels impact the look of the area which will also impact property values.
- Robin Huyett Thomas, property in Charles Town and on Old Cave Rd: Noted that she is not opposed to the solar facility and prefers it over residential development but had the following questions: whether the 138 kV would be upgraded and how that would impact property owners; concerns about impact on wildlife and Evitts Run water quality; and whether there is any continuity between solar projects.
- Joel Poortenga, 189 Treeline Dr.: Questions related to impact on wildlife and property values; how long installation is going to take; will the wires underground be disposed of when they are decommissioned?
- Mark Zimmerman, 343 Catherines Dr.: Noted that he moved here because of the rural character of the area and believes that this type of development is destroying the views of what people come here for; also concerned of impact on wildlife.
- Stacy Tabb (on Zoom), 248 Willowdale Drive, Shepherdstown: Expressed concern re: impact on water runoff, view shed, floodplain and wells.

Mr. Shepp closed the Public Workshop.

Chris Sternhagen, EDF, provided the following response to the public comments:

- EDF has no plans for expansion beyond the properties included in this application;
- No concrete will be used; they use 7'-8' steel I-beams, which are disposed of when the solar facility is decommissioned;
- The useful life of panels are 30-40 years; leases are limited to 30 years and will expire;
- SWM (water quality and quantity runoff) will be overseen by the state and the county provisions; the water quality should improve because agricultural uses do not require approved SWM plans;
- Local union labor will be used; there will be approximately 200 jobs which should last 10-12 months;

- The electric power being produced is using the existing 138 kV lines which can only serve a regional load and cannot travel far; EDF has an interconnection agreement that does not require a power upgrade;
- The project has been reviewed by state wildlife agencies; there are no threaten or endangered species on these properties; wildlife may improve as the grass/groundcover will be planted;
- The balance of the properties will be able to continue farming operations while providing the farmers with a steady income through the lease.

Mr. Raco, consultant for EDF, stated that local farmers have spoken in support of the opportunity for solar energy facilities in other meetings. He also noted that these properties could be rezoned for urban level development, which would result in more disturbance and traffic. Most of these farmers do not want to develop, they want to continue farming which this will allow.

Mr. Raco reviewed the various state agencies involved in the review of this project. He stated that the WVDNR had no comments on any historic or endangered species. The applicant will stay away from the floodplains and sink holes. Mr. Saunders will review the required SWM plans.

Mr. Shepp asked the Planning Commission members if they had any questions for staff or the applicant.

Mr. Louthan questioned the decommissioning and disposal of the panels. Mr. Raco said that the project will be bonded through the state DEP and noted that in 30 years there might be a better way of disposal of the panels.

Mr. Thomas (via Zoom) asked the applicant if they had seen the written comments provided by the Kurz's. There were two questions he would like addressed regarding the construction schedule (time of day) and is the impact of on-site lighting. Mr. Raco responded that construction would take 8 to 12 months and would occur during daylight hours. He stated that there is no proposed lighting other than the standard lighting required for the substation. He further stated that the local ordinances require all lighting to be oriented in a manner that cannot create offsite glare.

Mr. Hefestay asked about the general topography of this site and the whether the panels will be able to be viewed from the roads. Mr. Raco stated that the properties are typical of this vicinity and consist of rolling hills. Even with buffering and fencing, they will may still be visible from the roadways.

Mr. Hefestay made a motion to accept the Wild Hill Solar Energy Facility project Concept Plan as submitted and presented; Donnie Fisher seconded the motion; the vote carried unanimously.

There is no public comment for the following items.

## 6. Engineering Update

- a. Solar Facility Stormwater Management memo (informational only/nonactionable)

Mr. Saunders stated that the memo included in the packet was written by Roger Goodwin, Chief County Engineer, for the County Commission and might be able to answer some of the questions the Planning Commission had previously asked. It was included in the packet for informational purposes only.

## **7. Reports from Legal Counsel**

- a. Discuss and review Jefferson County Circuit Court Civil Action No. 2021-C-109. Mr. Cochran-It is in the Supreme Court
- 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 a lot of actions and there are many pieces that need to be worked out before finalization.

- c. Jefferson County Circuit Court Case #CC-19-2022-C-81 (RE: ZTA22-01 Solar Energy Facilities). Mr. Cochran said that a citizen stated that there be additional language placed in the ordinance and we disagreed with.
- d. Discuss and review Jefferson County Circuit Court Civil Action No. 2022-C-85. Regarding Cell Tower. One cell tower did not invite the other tower so they are challenging.

Mr. Nathan Cochran gave a brief update to the Planning Commission regarding the outstanding legal cases. He stated that Circuit Court Civil Action No. 2021-C-109 (sub-item a) will be heard by the WV Supreme Court in early October. Mr. Cochran stated that he is working on the other items, which he could discuss further in Executive Session if the Planning Commission would like the information. He also stated that there is an additional pending lawsuit (22C103) related the action by the Board of Zoning Appeals related to the Blake Conditional Use Permit, which is not on the agenda so he cannot speak to that at this time.

Mr. Shepp has asked if the project stops when a lawsuit is filed. Mr. Cochran stated that it has not stopped at this point and he does not know if it will have to be.

## **8. Planner's Memo**

Ms. Brockman noted that there is registration information regarding the annual State Auditor training related to the WV Ethics Act and Open Meetings Act for local Board members to be held October 5, 2022 in Martinsburg in the packet.

## **9. President's Report**

Mr. Shepp indicated that he would like to discuss discontinuing the ZOOM option for the Planning Commission meetings. Mrs. Brockman stated that we will have to continue to use ZOOM for broadcasting and recording the meeting but could discuss whether the Planning Commission wanted to keep the participating option for members and the public. Mr. Shepp asked for this to be put on the next agenda for discussion purpose.

## **10. Actionable Correspondence- None**

**11. Non-Actionable Correspondence**

- a. Email correspondence from Alan Dattelbaum dated August 10, 2022

Mr. Stolipher made a motion to adjourn the meeting; Mr. Hefestay seconded the motion; which was carried unanimously.

The meeting was adjourned at 8:27 pm.

These minutes were prepared by Tanya Lyons Planning Clerk.