

Meeting Minutes
Jefferson County Planning Commission
February 14, 2023

The Jefferson County Planning Commission met on February 14, 2023 at 7:00 pm with the following Planning Commission members present: Mike Shepp, President; Wade Louthan, Secretary; Steve Stolipher, County Commission Liaison; and Jack Hefestay were present in person. J. Ware and Shane Roper were present via ZOOM. Ron Thomas, Matt Knott, and Donnie Fisher were absent with notice.

Staff members present included Jennifer Brockman, Chief County Planner; Luke Seigfried, County Planner; Jonathan Saunders, County Engineer; Alexandra Beaulieu, Deputy Director and Zoning Administrator; and Nathan Cochran, Prosecuting Attorney.

Mr. Shepp called the meeting to order at 7:00 pm. and confirmed that a quorum was present.

1. **Approval of Meeting Minutes:** January 10, 2023

Mr. Shepp stated that the minutes stand approved without objection.

2. **Request for postponement.** Agenda Item #6 (File: 23-3-PCW) was postponed until 03/14/23.

3. **Public Hearing:** Request for a Final Plat Amendment to lift the single family restriction (see note on Final Plat recorded in PB 8 / PG 6C) to allow for the construction of a two family dwelling (attached garage with apartment) for a family member. Property Owner: Abby and David Hyams; Property Location: Deer Mountain Subdivision, Lot #27, vacant parcel on Deer Mountain Drive, Harpers Ferry, WV; Parcel ID: 04003E00270000; Size: 1.15 acres; Zoning District: Rural; (File: 23-1-FPA).

Ms. Brockman provided an overview of the staff report.

Abby and David Hyams, property owners, explained the nature of the request to the Planning Commission noting that lifting the single family restriction would allow for the construction of an apartment above the attached garage for a family member (two-family dwelling).

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

Mr. Stolipher made a motion to approve the Final Plat Amendment as presented. Mr. Louthan seconded the motion, which carried unanimously.

4. **Public Hearing:** Request for a waiver from Section 20.201A.2 to reduce the width of the required access easement from 50' to 30'; and, to allow for the creation of two additional lots on Lathem Drive & Ashland Woods to process as a minor subdivision. Property Owner: Paul and Donna Ashbaugh; Property Location: Vacant lot on the SE corner of Lathem Drive & Ashland Woods, Harpers Ferry, WV; Parcel ID: 02002100370000; Size: 65.4 acres; Zoning District: Rural (File: 23-1-PCW).

Ms. Brockman provided an overview of the staff report, noting that staff's recommendation was that the additional lots process as a major subdivision due to the number of lots sharing the access from the state road.

Paul Ashbaugh, property owner, explained the nature of the request to the Planning Commission.

Mr. Shepp opened the public hearing. The following members of the public provided testimony:

1. Ms. Kristen Marshall, Lot 9, Ashland Woods, 418 Lathem Dr, was not opposed to the additional lots but was concerned about the condition of the road serving the existing and proposed lots.
2. Mr. Adam Bolton, Lot 4, Ashland Woods, 382 Ashland Woods Dr, spoke in opposition to the request due to the condition of the roads; he stated that the roads are not maintained and are not passable in the spring.
3. Mr. Stephen Kazyak, 495 Ashland Woods Dr, spoke in opposition to the request, noting that road maintenance in this area is difficult and expensive and that there are no culverts or other drainage structures.

Mr. Shepp closed the public hearing.

Mr. Ashbaugh provided a rebuttal and discussed road maintenance and improvement options.

Mr. Stolipher made a motion to deny the waiver request citing concerns regarding public safety. Mr. Louthan seconded the motion, which carried unanimously.

Mr. Stolipher recused himself from Agenda Items 5 & 7. Mr. Stolipher left the meeting room at 7:28 p.m.

5. **Public Hearing:** Request for a waiver from Section 20.102B to allow site grading to commence prior to site plan approval for the proposed Sheetz Convenience Store and Gas Station (File: 21-4-SP). Property Owner: Sheetz, Inc, c/o Bob Franks. Property Location: Chicchirichi Minor Subdivision, Lot 1 - Vacant parcel northeast of US 340 and Augustine Avenue intersection, Charles Town, WV. Parcel ID: 02001600010000; Size: ~3 acres; Zoning District: Highway Commercial (File: 23-2-PCW).

Ms. Brockman provided an overview of the staff report.

Chad Wallen, representative with Integrity Federal Services, and Bob Franks with Sheetz were present. Mr. Wallen explained the nature of the request to the Planning Commission stating that the West Virginia Division of Highways (WVDOH) approval for an entrance permit was taking longer than anticipated, resulting in a substantial delay for the project. Approval of this waiver would allow the site work to begin while awaiting this permit. Mr. Wallen confirmed that the applicant understands that early grading is at their own risk and that the project would be bonded as part of the early grading permit process.

Mr. Shepp asked for clarification as to what was causing the delay with the DOH. Mr. Franks stated that the DOH signal agreement is outstanding and that he had just received a copy of the agreement on February 13. Mr. Louthan asked if Sheetz had concerns with the agreement. Mr. Franks stated that none had been identified. Mr. Franks stated that a construction bond had already been posted and that a new bond should not be needed.

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

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

6. **Postponed until March 14, 2023.** Public Hearing: Request for a waiver from Section 20.201A.2 to reduce the width of the required access easement from 50' to 20' for a three lot minor subdivision. Property Owner: Susan Reichel Et Al. Property Location: 2195 Engle Molers Rd, Harpers Ferry, WV. Parcel ID: 04000100060005; Size: 10 acres; Zoning District: Rural (File: 23-3-PCW).

The applicant for Item #6 (File: 23-3-PCW) requested a postponement until 03/14/23.

7. **Public Hearing:** Request by Harpers Ferry Dollar General (File: 22-14-SP) for the following waivers:
 - a. A waiver from Section 20.204 to allow a proposed 10,542 sf retail store and associated parking lot to utilize the Minor Site Plan process as opposed to the Major Site Plan process (23-4-PCW).
 - b. A waiver from Section 20.102B to allow site grading to commence prior to site plan approval of the proposed 10,542 sf retail store (23-5-PCW).

Property Owner: Wall Street Partners WV1, LLC. Property Location: Vacant Lot on the corner of Amanda Ct & Shepherdstown Pike, Harpers Ferry, WV. Parcel ID: 04001000110005; Size: 2.19 acres; Zoning District: Residential-Light Industrial-Commercial.

Ms. Brockman provided an overview of the staff report for each request.

Rob Milne, representative with Thrasher Group, spoke on behalf of the property owner. Mr. Milne briefly explained the nature of each the request. Mr. Milne confirmed that the project would be bonded as part of the early grading permit process. Mr. Milne stated that they had obtained state approval for connection with the waterline approximately 500' to the north of this property.

Mr. Saunders addressed the Planning Commission's questions and noted that the project started processing as a minor site plan; however, Jefferson Utilities approached the applicant about extending water and sewer, which then required processing as a major.

Mr. Shepp opened the public hearing and took comments on both waiver requests.

Mr. David Tabb asked questions about the process and expressed potential concerns with the requests. Ms. Stacy Tabb, County resident, spoke in opposition to the request. John and Katie Craun, confronting property owners across WV 230, expressed some concerns about the impact of the development at this location.

Mr. Shepp closed the public hearing.

Mr. Milne provided a rebuttal and addressed some of the commenter's concerns.

Mr. Hefestay made a motion to approve both waiver requests as presented. Mr. Shepp seconded the motion, which carried with a vote of four in support and one opposed (Mr. Louthan).

Mr. Stolipher returned to the meeting room.

8. **Public Hearing:** Request for a waiver from Section 20.203B.2, which requires a Limited Site Plan when the footprint of an addition or a new structure is greater than 1,200 square feet and less than 3,000 square feet, and the disturbed area is greater than 5,000 square feet. The applicant is requesting to waive the requirement of a Site Plan to allow for the construction of a 2,420 square foot addition to be located over the existing parking lot. Property Owner: SUSO 2 Alabama LP. Property Location: 96 Patrick Henry Way, Charles Town WV; Parcel ID: 02000800290002; Size: ~21 acres; Zoning District: Residential- Light Industrial- Commercial (File: 23-6-PCW).

Ms. Brockman provided an overview of the staff report, noting that staff does not oppose the request. Ms. Brockman also noted that the parking would be evaluated by the Board of Zoning Appeals later this month

Carolyn Howard, representative with Dewberry, spoke on behalf of the property owner. Ms. Howard stated she did not have anything to add to staff's overview.

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

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

9. **Discussion and Action:** In accordance with Section 23.202B.4 of the Subdivision Regulation, the applicant is requesting that the Planning Commission deem the Stonecrest Preliminary Plat Application as Complete (per Sections 24.113 and 24.114) for the purpose of scheduling a Public Hearing. The applicant is also requesting that the Planning Commission call a meeting for March 28, 2023 under the 4th Tuesday Meeting Policy. Applicant: Integrity Federal Services (IFS). Property Owner: Flowing Springs Road LLC. Property Location: Parcel ID: 02000300090000; Size: 102 acres; Zone: Residential Growth. File: 22-11-SD.

Ms. Brockman provided a brief overview of the request. Ms. Brockman noted that the preliminary plat is now in its second review.

Chad Wallen, representative with Integrity Federal Services, explained the purpose of requesting a second meeting in March. Ms. Brockman explained that a legal ad notifying the public of the Public Workshop would be required.

Mr. Stolipher motioned to deem the Stonecrest Preliminary Plat as complete and to schedule the required Public Hearing for March 28, 2023 at 7:00 PM. Mr. Hefestay seconded the motion, which carried unanimously.

10. **Discussion and Possible Action:** Proposed Planning Commission Policy RE: Clarification of Vested Property Rights for Concept Plans and Preliminary Plats for Phased Projects.

Ms. Brockman explained the purpose of the proposed Policy related to the vesting and phasing of major subdivision projects. The Planning Commission discussed the implications of the proposed Policy. The Planning Commission directed staff to include a statement that all sections of a phased Preliminary Plat needs to be Final Platted within the 5 year period, unless an extension is granted.

Mr. Hefestay motioned to approve the Policy as presented by staff with the clarifying language. Mr. Stolipher seconded the motion, which carried unanimously.

11. 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. Jefferson County Circuit Court Case #CC-19-2022-C-81 (RE: ZTA22-01 Solar Energy Facilities).
- d. Discuss and review for possible action Jefferson County Circuit Court Civil Action No. 2022-C-85.

Mr. Cochran requested to move the legal update to the end of the agenda.

12. Planner's Memo. Ms. Brockman provided an overview of the Planner's Memo.

13. President's Report. None.

14. Actionable Correspondence. None.

15. Non-Actionable Correspondence.

Ms. Brockman noted an email from Ms. Linda Peters, dated 01-13-2023, which was included in the agenda packet.

Mr. Shepp made a motion to go into executive session at 8:18 p.m. to discuss Agenda Item 11.a. Mr. Hefestay seconded the motion, which carried unanimously.

Mr. Shepp made a motion to come back in regular session at 8:36 p.m. Mr. Hefestay seconded the motion, which carried unanimously.

Mr. Hefestay made a motion to adjourn the meeting at 8:37 pm. Mr. Stolipher seconded the motion, which carried unanimously.

These minutes were prepared by Jennifer Brockman, Chief County Planner.