

Meeting Minutes
Jefferson County Planning Commission
June 13, 2023

The Jefferson County Planning Commission met on June 13, 2023 at 7:00 pm with the following Planning Commission members present: Mike Shepp, President; Wade Louthan, Secretary; Jack Hefestay; Tim Smith; Aaron Howell; Donnie Fisher were present in person. Matt Knott, Vice President was present online via Zoom.

Steve Stolipher, County Commission Liaison was absent with notice.

J. Ware was absent without notice.

Staff members present included: Jennifer Brockman, Chief County Planner; Luke Seigfried, County Planner; Alexandra Beaulieu, Deputy Director and Zoning Administrator; Jonathan Saunders, County Engineer; Nathan Cochran, Prosecuting Attorney; Steve Groh, Assistant Prosecuting Attorney; Michelle Evers, Planning Clerk; Joe Guttmann and Shenandoah Ragle, Comprehensive Plan staffers.

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

1. **Approval of Meeting Minutes:** May 9, 2023

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

2. **Request for postponement.**

3. **Public Workshop:** Concept Plan for the Shannondale Lake Telecommunications Tower consisting of a 100' Monopole Telecommunications Tower to include 9 Antennas, one 10' x 3' concrete equipment pad and one 7' x 4' wide concrete equipment pad within a 50' x 50' fenced compound area. Applicant: Smartlink Group, Attn: Sonya Hemphill; Property Owner: Shannondale Enterprises Inc., Attn: Jeff Shores; Property Location: 1329 Lakeside Drive, Harpers Ferry, WV; Parcel ID: 06000600090000; Size: ~68 acres; Zoning District: Rural (File: 23-3-SP).

Planning Commission member Aaron Howell recused himself from the meeting.

Ms. Brockman provided an overview of the staff report. Ms. Brockman explained that the project is a Principal Permitted Use and provided an overview of the Public Workshop process.

The applicant's attorney Sam Byrer and Matt Grugan with Vertical Bridge, the company that would own and operate the tower, explained the nature of the request to the Planning Commission. Beth Schull with Smartlink and Brian Siverling, Engineer from Morris Ritchie Associates were also in attendance.

Mr. Shepp opened the Public Workshop.

- Mr. Dan Kaseman (Opposed). Ms. Rachel Shub (Opposed), Ms. Charlotte Fremaux (Opposed), Ms. Laura VanVuuram (Opposed), Mr. Brent Recketts (Opposed), Mr. Randy R. Creller (Supports), Mr. Alex Korovin (Opposed), Mr. Jack Hahn (Opposed), Mr. Mark Currin (Supports), and Ms. Cheryl Avery (Opposed) provided public comment.

Mr. Shepp confirmed that no one else in the room wanted to provide comment. Mr. Shepp closed the Public Workshop.

Mr. Byrer and Mr. Grugen provided a rebuttal and responded to questions and concerns presented by the public.

The Planning Commission asked the applicant several questions.

Ms. Brockman reiterated that the project is a Principal Permitted Use and provided an overview of what the Planning Commission should review when making their decision.

Mr. Knott made a motion to approve the request based on it being in compliance with the Zoning Ordinance and consistent with the Comprehensive Plan. Mr. Shepp seconded the motion, the motion failed with the vote 2 to 4 (Mr. Louthan, Mr. Hefestay, Mr. Fisher, and Mr. Smith were in opposition).

Planning Commission member Aaron Howell rejoined the meeting.

4. **Public Hearing:** Request for a Waiver from Section 21.101A, which requires blocks to not exceed six lots in length on one side of the street, to allow a mixture of lot numbers along both sides of the streets for the proposed Hunter Hills Subdivision (File: 21-21-SD). Property Owner/Applicant: ILA Properties, Inc.; Property Location: 4469 Charles Town Road, Kearneysville, WV; Parcel ID: 0700010002000; Size: ~107 acres; Zoning District: Residential-Light Industrial-Commercial (File: 23-10-PCW).

Ms. Brockman provided an overview of the staff report.

The applicant's consultant, Paul Raco with P.J. Raco Consulting, explained the nature of the request to the Planning Commission.

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

Ms. Brockman made a staff recommendation for sidewalk access to the nearby park.

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

5. **Public Hearing:** Request for a Waiver from Section 20.102B to allow site grading and utility work to commence prior to Final Plat approval for the proposed four-lot Country Club Commons Nonresidential Subdivision (19-17-SD). Property Owner/Applicant: B.C. Partners / Dan Snyder, P.E; Property Location: Vacant lot NE corner of Route 340 and WV 24 (Country Club Road), Charles Town, WV; Parcel ID: 04001100110000; Size: 9.54 acres; Zoning District: Residential-Light Industrial-Commercial (File: 23-11-PCW).

Ms. Brockman provided an overview of the staff report.

Mr. Saunders County Engineer, supported the requested waiver based on the fact that all comments have been addressed other than the DOH permit.

The applicant's consultant, Paul Raco with P.J. Raco Consulting, and the Property Owner Dan Snyder, explained the nature of the request to the Planning Commission.

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

Mr. Shepp reiterated that the applicant understands the request to begin the work prior to final approval is at their own risk.

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

6. **Public Hearing:** Request for a Waiver from Section 20.201A2 to reduce the width of the required access easement from 50' to 40' for a proposed four lot minor subdivision. Property Owner: Howard Wines and Regina Northcraft; Applicant: David Lutman; Property Location: 389 Billmyer Mill Road, Shepherdstown, WV; Parcel ID: 09000700150005; Size: 10.11+- acres; Zoning District: Residential Growth (File: 23-12-PCW).

Ms. Brockman provided an overview of the staff report.

The applicant, David Lutman and Property Owner, Howard Wines, explained the nature of the request.

Mr. Shepp opened the public hearing.

- Mr. Steve Secrist, Ms. Erin Matthias, and Mr. Norman Secrist provided public comment.

Mr. Shepp confirmed that no one else in the room wanted to provide comment. Mr. Shepp closed the Public Hearing.

The applicants provided a rebuttal and responded to questions and concerns presented by the public.

The Planning Commission asked the applicant and staff several questions.

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

7. **Public Hearing:** Request for a Waiver from Section 20.102B to allow site grading and footings to commence prior to Site Plan approval for the proposed Phase II of the AMP at Sam Michaels Park due to grant deadlines (File: 22-2-SP). Property Owner: Jefferson County Commission; Applicant: Jefferson County Parks & Recreation Commission; Property Location: 235 Sam Michaels Ln, Shenandoah Junction, WV; Parcel ID: 02000300120000; Size: 136.6 acres; Zoning District: Rural (File: 23-13-PCW).

Ms. Brockman provided an overview of the staff report.

The applicant's representative, Becki Zaglifa, explained the nature of the request. Ms. Zaglifa also discussed her concerns regarding the grant they received for the project expiring, if the waiver was not approved. Marcus Spina, Engineer from Civil Environmental Consultants, was also present on behalf of the applicant. Mr. Spina stated to the Planning Commission that the site plan would be submitted within a month for initial review.

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

Mr. Saunders, County Engineer, asked clarifying questions to the applicant's representatives regarding the grant. Mr. Saunders also provided staff recommendations to move forward with a motion to approve the waiver as presented as the Parks and Recreation Commission is a County agency and the work is at the Commission's risk.

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

8. **Public Hearing:** Waiver from Section 24.202A of the 2008 Subdivision Regulations, which requires "an amendment to a subdivision plat to process in the same manner as the plat was originally approved". The Waterside Reserve Subdivision (Files #02-37 and 05-19) processed under the 1979 Subdivision Ordinance, which required both the Community Impact Statement (CIS) and Final Plat to be considered during a Public Hearing before the Planning Commission. The applicant is requesting permission to amend the CIS and Final Plat for the purpose of excluding the Open Space parcel from the Waterside Reserve subdivision to allow for the continued use of an existing nonconforming campground and to allow said amendment to process administratively.; Property Owner: Whisper Ridge, LLC; Applicant: Panhandle Legal / Christopher P. Stroech; Property Location: Vacant parcel on Wilt Road, Charles Town, WV; Parcel ID: 02020B0OS10000; Size: 6.08 acres; Zoning District: Rural (File: 23-14-PCW).

Mr. Cochran, Prosecuting Attorney asked the Planning Commission to allow Steve Groh, Assistant Prosecuting Attorney, to provide legal counsel on his behalf. Mr. Cochran stated the applicant's matter came before the BZA and that Mr. Groh was more familiar with the applicant's requests. Mr. Cochran also stated there may be a conflict of interest which would require him to recuse himself.

Ms. Brockman provided an overview of the staff report.

Ms. Patricia Sanderson, Mr. David Leonard and Attorney Christopher Stroech were present on behalf of Whisper Ridge LLC. Mr. Stroech, explained the nature of the request.

Mr. Shepp opened the Public Hearing.

- Ms. Jean Cross, Ms. Laurie Cook, Ms. Karla Hanes, Mr. Jeff Whitten, Ms. Hazel Myers, and Mr. Wade Sanderson provided public comment.

Mr. Shepp confirmed that no one else in the room wanted to provide comment.

- Ms. Maris Keiter provided public comment.

Mr. Shepp closed the Public Hearing.

Ms. Brockman and Mr. Groh provided staff recommendations.

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

9. **Discussion and Possible Direction:** Letter from Mayor Auxer, Shepherdstown, dated 5/9/23 requesting a Memorandum of Understanding regarding agenda items within Shepherdstown Growth Management Boundary.

Mr. Shepp postponed discussion until Mr. Cochran rejoined the meeting (see below).

10. **Discussion and Possible Direction:** Draft policy related to changes to WV Code 8A regarding delegating to staff the authority to determine completeness of Preliminary Plats and/or Major Site Plans, while Subdivision Regulation Text Amendment is being processed. *(to be distributed at meeting)*

Ms. Brockman provided her recommended language for the updated WV Code 8A.

Mr. Fisher made a motion to adopt the policy as staff has written. Mr. Howell seconded the motion, which carried unanimously.

11. **Discussion and Possible Direction:** Determination regarding contracts to hire a social media marketing firm to increase Public Outreach for the Comprehensive Plan Update. *(to be distributed at meeting)*

Mr. Shepp postponed discussion until Mr. Cochran rejoined the meeting (see below).

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. 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.

13. **Planner's Memo.**

Ms. Brockman reminded the Planning Commission about the upcoming regular Planning Commission Meeting on July 11, 2023.

14. **President's Report.**

15. **Actionable Correspondence.**

16. **Non-Actionable Correspondence.**

- Email from Alan Dattelbaum Re: Dust Control for Large Scale Projects.

Agenda Item #9 Discussion and Possible Direction: Letter from Mayor Auxer, Shepherdstown, dated 5/9/23 requesting a Memorandum of Understanding regarding agenda items within Shepherdstown Growth Management Boundary.

Mr. Cochran provided recommendations regarding the request from Mayor Auxer, Shepherdstown.

Mr. Fisher made a motion to deny the request. Mr. Louthan seconded the motion, which carried unanimously.

Agenda Item #10 Discussion and Possible Direction: Determination regarding contracts to hire a social media marketing firm to increase Public Outreach for the Comprehensive Plan Update.

Mr. Seigfried presented the options for social media marketing firms. Mr. Seigfried also discussed keeping marketing in house using freelance services for specific projects that was recommended by staff.

The Planning Commission asked staff questions regarding contracts with the social media marketing firms.

Mr. Cochran provided his legal recommendations and suggested researching the contracts with each option before making a decision.

The Planning Commission gave staff permission to choose the marketing option, but to discuss any legal contracts with the Planning Commission prior to signing any agreements.

Mr. Smith made a motion to adjourn the meeting at 9:25pm. Mr. Louthan seconded the motion, which carried unanimously.

These minutes were prepared by Michelle Evers, Planning Clerk.