

Meeting Minutes  
Jefferson County Planning Commission  
November 14, 2023

The Jefferson County Planning Commission met on November 14, 2023 at 7:00 pm with the following Planning Commission members present: Mike Shepp, President; Steve Stolipher, County Commission Liaison; Wade Louthan, Secretary; Jack Hefestay; Tim Smith; and Aaron Howell.

Matt Knott was absent with notice.

Donnie Fisher and J. Ware were absent without notice.

Staff members present included Jennifer Brockman, Chief County Planner; Luke Seigfried, County Planner; Jonathan Saunders, County Engineer; Nathan Cochran, Prosecuting Attorney; and Michelle Evers, Planning Clerk.

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

**1. Approval of Meeting Minutes: October 10, 2023 and November 6, 2023**

Mr. Shepp noted the following correction to the minutes:

- Add who the minutes were prepared by at the end of the October 10, 2023 meeting minutes.

Mr. Howell noted that the following correction needed to be made to the motion on Agenda Item #6:

- Mr. Stolipher made a motion that the Planning Commission should process all waivers in accordance with the current version of the Subdivision Regulations ~~and not require a Public Hearing.~~

Mr. Shepp stated the minutes stand approved as amended without objection.

**2. Request for postponement.**

- 3. POSTPONED Indefinitely by request of the Applicant: Public Workshop:** Concept Plan for Bakerton Monopole (fka Harvest Ct) Telecommunications Tower consisting of a 100' Monopole Telecommunications Tower with a 50' x 50' fenced compound. Applicant: Smartlink Group, LLC / Attn: Scott Nichols; Property Owner: Timothy R & Marla B Landis; Property Location: 248 Harvest Court, Harpers Ferry, WV; Parcel ID: 04000300750000; Size: 13.678 ac; Zoning District: Rural (File #23-5-SP).

Mrs. Brockman explained the applicant has requested postponing this application indefinitely. This item was postponed indefinitely.

- 4. Public Hearing:** Request for a Final Plat Amendment to lift the single family restriction to allow for the construction of an Accessory Dwelling Unit for use by a family member (see Final Plat Note recorded in Deed Book 632, at Page 363). Applicant/Property Owner: Todd D Banks & Taylor Bishop. Property Location: Cottage Hall, Lot 1, 5994 Flowing Springs Rd, Shenandoah Junction, WV; Parcel ID: 09002000050001; Size: 10 ac; Zoning District: Rural (File #23-4-FPA).

Mrs. Brockman provided an overview of the staff report.

The applicant, Taylor Bishop, 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. Hefestay made a motion to approve the Final Plat Amendment request as presented. Mr. Louthan seconded the motion, which carried unanimously.

**There is no public comment for the following items.**

5. Waiver request from Section 24.112.C to allow a 1-year extension of the time requirements to prepare a Preliminary Plat for the Colonial Hills Phase 3B based on Concept Plan approval on October 12, 2021. Applicant / Property Owner: KE Colonial, LLC / Rick Fink; Property Location: Vacant Lot on the NE corner of Higbee Lane & Potomac Farms Drive, Shepherdstown, WV. Parcel ID: p/o 09000800100000; Size: 2.54 ac; Zoning District: Residential Growth (File #23-23-PCW).

Mrs. Brockman provided an overview of the staff report.

The applicant's representative, Ryan Perks, with Integrity Federal Services, explained the nature of the request to the Planning Commission.

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

6. Waiver from Section 2.5 M (Appendix B-Engineering Standards) as amended Feb 1, 2018, to allow for gravel parking area for a proposed Day Care Facility. Applicant: Dino Kids Childcare, LLC / Cordelia Courtney. Property Owner: Peter Corum. Property Location: 3988 Kearneysville Pike, Shepherdstown, WV. Parcel ID: 09001300260002; Size: 2 ac; Zoning District: Neighborhood Commercial (File #23-24-PCW).

Mrs. Brockman provided an overview of the staff report.

Mr. Saunders, County Engineer, provided staff recommendations related to the provision of gravel parking for staff and parent drop off. He noted that there are ADA paved spaces near the side door to the facility.

The applicant, Cordelia Courtney, explained the nature of the request to the Planning Commission and the WV DOH requirements with which she will comply.

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

7. Waiver from Section 20.201A.2 to reduce the required access easement width from 50' to 40' for a portion of an existing access easement for the purpose of processing a two-lot minor subdivision (for a total of four lots). Applicant: Donna C. Bent; Property Location: 1332 Billmyer Mill Rd, Shepherdstown; Parcel ID: 09000600050006; Size: 10.38 acres; Zoning District: Rural (File #23-25-PCW).

Mrs. Brockman provided an overview of the staff report and explained how this request differs from the waiver approved by the Planning Commission in 2021 (Files # 21-3-PCW).

The applicant, Donna Bent, explained the nature of the request to the Planning Commission and noted that the property has less than 40' of road frontage on Billmyer Mill Road.

Mrs. Brockman recommended that the Planning Commission approve this waiver request with the stipulation of processing a maximum of a two-lot minor subdivision (for a total of four lots).

Mr. Hefestay made a motion to approve the waiver with staff's stipulation. Mr. Louthan seconded the motion, which carried unanimously.

## **8. Reports from Legal Counsel**

- a. Discuss and review Jefferson County Circuit Court Civil Action No. 2021-C-109 (RE: PC File #21-2-Z – Jefferson Orchards Rezoning).
- b. Review and discuss 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 and Jefferson County Circuit Court Civil Action No. 2023-C-112 (RE: PC File #ZTA19-03 Solar Energy Facilities text amendment).
- c. Jefferson County Circuit Court Case #CC-19-2022-C-81 (RE: PC File #ZTA22-01 Solar Energy Facilities text amendment).
- d. Discuss and review for possible action Jefferson County Circuit Court Civil Action No. 2023-C-48 (RE: PC File #21-8-SP Berryville Pike Telecommunications Tower).
- e. Discuss and review of VB BTS, LLC v. Jefferson County, WV and the Jefferson County Planning Commission, U.S. N.D. W. Va. Case No. 3:23-CV-171 (RE: PC File #23-3-SP – Shannondale Lake Telecommunication Tower).

Mr. Cochran stated to the Planning Commission that Item E is currently processing through Federal Court and that he would have more information at the next Planning Commission meeting.

Mr. Shepp requested an update on the previous deposition and asked when he would receive the document for review and signature. Mr. Cochran stated that he would speak to Steve Groh, Assistant Prosecuting Attorney for an update.

## **9. Planner's Memo**

Mrs. Brockman reminded the Planning Commission about the upcoming Planning Commission Meeting and Work Session on December 12, 2023.

## **10. President's Report**

Mr. Shepp requested that if staff receives written public comment or phone calls regarding waiver requests, they forward them to the Planning Commission for the opportunity to respond.

## **11. Actionable Correspondence**

- Email from Christine Marshall dated October 30, 2023

Mr. Shepp deferred to Mr. Cochran regarding a response to the email from Ms. Marshall.

Mr. Cochran provided broad legal counsel regarding requirements related to subcommittees that do not include a quorum of the Planning Commission.

Mrs. Brockman reported that the Planning Commission has used several subcommittees over the years and none of them have consisted of a quorum and no decisions are made. The subcommittees always report back to the Planning Commission for any public input or action on their recommendations.

Mr. Shepp stated there is no motion or action to be made at this time.

## **12. Non-Actionable Correspondence**

Mr. Louthan made a motion to adjourn the meeting at 7:23pm. Mr. Hefestay seconded the motion, which carried unanimously.

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These minutes were prepared by Michelle Evers, Planning Clerk.