

Meeting Minutes
Jefferson County Planning Commission
February 20, 2024

The Jefferson County Planning Commission met on February 20, 2024 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. J. Ware was present via Zoom.

Matt Knott, Vice President was absent with notice.

Donnie Fisher was absent without notice.

Staff members present included Jennifer Brockman, Chief County Planner; Alexandra Beaulieu, Deputy Director & Zoning Administrator; Jonathan Saunders, County Engineer; Luke Seigfried, County Planner; 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. Election of Planning Commission Officers

Mr. Hefestay nominated Mr. Shepp for President; Mr. Louthan seconded the motion. No other nominations were submitted. Mr. Shepp was elected president by unanimous consensus.

Mr. Louthan nominated Mr. Howell for Vice President; Mr. Smith seconded the motion. No other nominations were submitted. Mr. Howell was elected president by unanimous consensus.

Mr. Shepp nominated Mr. Louthan for Secretary; Mr. Howell seconded the motion. No other nominations were submitted. Mr. Louthan was elected Secretary by unanimous consensus.

2. Approval of Meeting Minutes: January 24, 2024

Mr. Shepp stated the minutes stand approved without objection.

3. Request for postponement. None

4. Public Hearing: Variance request from Section 8.1d of the 1979 Subdivision Ordinance to extend the requirement to bond and record the final plat for Beallair, Phase 4B from March 11, 2024 to June 9, 2024. Property Owner: Beallair Homes, LLC; Applicant: Piedmont Design Group, LLC; Property Location: Vacant Lot on Beallair Manor Dr., Harpers Ferry, WV; Parcel ID: 04010ARESA0000; Size: 46.18 acres; Zoning District: Residential Growth (File: 24-1-PCV).

Mr. Howell recused himself from the meeting.

Mrs. Brockman provided an overview of the staff report.

The applicant's representative, Todd Abe, with Piedmont Design Group, LLC, 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. Stolipher made a motion to approve the 90-day extension, as requested. Mr. Hefestay seconded the motion, which carried unanimously.

Mr. Howell rejoined the meeting.

There is no public comment for the following items.

- 5. Discussion and Action:** Planning Commission review and recommendation to the County Commission regarding whether the petition for a Zoning Map Amendment to rezone the subject parcels from Rural to Residential Growth (RG) is consistent with the *Envision Jefferson 2035 Comprehensive Plan*. Property Owner: Arcadia Land Inc.; Property Location: Vacant parcels, which are a part of the Harvest Hills Subdivision, located east of the intersection of Flowing Springs Rd and Brass Harness Drive. Tax District: Shepherdstown (09), Tax Map: 24; Parcels: 12 & 13; comprised of 94.63 acres (P12) and 257.62 acres (P13). Zoning District: Rural (File: 23-5-Z).

Mrs. Brockman provided an overview of the staff report and staff recommendations. The staff report noted that the Future Land Use Guide shows the property as “Low Density Residential”, which reflected the previously approved Conditional Use Permit with the expectation that it would develop as planned under the approved CUP, as the most recent Final Plat had processed in 2012. For this reason, staff found the requested Residential Growth Zoning to be consistent with the Comprehensive Plan.

Mr. Cochran recused himself from the meeting.

The applicant’s representative Dan Murphy, with Greenway Engineering, stated to the Planning Commission that he had nothing further to present. Mr. Shepp asked staff clarifying questions and expressed the opinion that the Residential Growth Zoning Category does not restrict the development to low density development. The Planning Commission discussed the fact that the Low Density Residential future land use category is a land use category which anticipates “land occupied by a single family residential development, with a density of one unit per acre to 2.99 units per acre” while the Residential Growth Zoning district allows all densities of residential development including single family, duplexes, townhomes, and apartments.

They also noted that while the proposed exhibit submitted with their Zoning Map Amendment request falls within the parameters of the future land use category, once the property is rezoned to Residential Growth, all densities would be permitted*.

Ms. Brockman noted that the Jefferson County Zoning Ordinance does not have a zoning category that limits residential development to low density single family developments.

Mr. Shepp made a motion that the requested Zoning Map Amendment for the Harvest Hills/Arcadia properties is not consistent with the *Envision Jefferson 2035 Comprehensive Plan*. Mr. Hefestay seconded the motion, which carried unanimously.

Mrs. Brockman noted that the *2035 Envision Jefferson Comprehensive Plan* had recommended additional residential zoning categories which were never implemented and stressed the need to implement the recommendations of the current *2045 Comprehensive Plan* when it is approved..

Mr. Cochran rejoined the meeting.

- 6. Waiver Request** from 20.203A.2a of the Subdivision Regulations to waive the requirement of a Concept Plan for a proposed Concrete Plant; and, from Section 20.203B to allow the proposed Plant to process as a modified Site Plan. Property Owner: Millville Quarry, Inc.; Applicant: Chris Stiles, Diamond Concrete, LLC; Property Location: 165 Bradstone Lane, Harpers Ferry, WV 25425; Parcel ID: 04001100220000; Size: 272.16 acres; Zoning District: Industrial Commercial (File: 24-2-PCW).

7. **Waiver Request** from Section 20.203B of the Subdivision Regulations to allow the proposed Asphalt Plant to process as a modified Site Plan. Property Owner: Millville Quarry, Inc.; Applicant: W-L Construction and Paving, Inc. / Mike Thomas; Property Location: 165 Bradstone Lane, Harpers Ferry, WV 25425; Parcel ID: 04001100220000; Size: 272.16 acres; Zoning District: Industrial Commercial (File: 24-3-PCW).

Mrs. Brockman provided an overview of the staff reports for Agenda Items 6 (new concrete plant) and 7 (new asphalt plant).

The applicant's representative, Joe Knechtel, with Potesta & Associates, explained the nature of the request for Agenda Items 6 and 7 to the Planning Commission and discussed the fact that the new plants are proposed to be located in an area that is already impervious and covered by the site-wide NPDES permit.

Mrs. Brockman and Mr. Saunders provided staff recommendations. Mr. Saunders stated that if the Planning Commission were inclined to approve this request that they either approve processing a Limited Site Plan with no conditions; or that they approve a waiver that allows them to process under the "No Site Plan" provisions of the subdivision regulations with a sketch that shows the immediate area around the improvements including topography; Erosion and Sediment Control, if necessary; Stormwater flow; stockpiles; setbacks; and a handicap parking spot for the maximum shift of 3 employees, as noted in the application.

Mr. Stolipher made a motion for Agenda Item 6, to waive the Concept Plan, and to process under the "no site plan" provisions of the Subdivision Regulations with topography, setbacks, stockpiles, ADA parking, and sediment control. Mr. Howell seconded the motion, which carried unanimously.

Mr. Stolipher made a motion for Agenda Item 7 to allow the project to process under the "no site plan" provisions of the Subdivision Regulations with topography, setbacks, stockpiles, ADA parking, and sediment control. Mr. Howell seconded the motion, which carried unanimously.

8. **Waiver Request** from Section 22.208 and Appendix B Section 10.6 to remove the requirement of a sidewalk along the frontages of the property at this time. Property Owner: DALB INC; Property Location: 73 Industrial Blvd, Kearneysville, WV 25430; Parcel ID: 02000200010007; Size: 2 acres; Zoning District: Industrial Commercial (File: 24-5-PCW).

Mrs. Brockman provided an overview of the staff report and recommended that if the Planning Commission was inclined to approve the waiver that a 10' pedestrian easement be provided by deed or plat for the potential future development of a pedestrian walkway along the entire frontage of both Wiltshire Road and Industrial Boulevard.

The applicant's representative, Brooke Perry, with Integrity Federal Services, explained the nature of the request to the Planning Commission, stating that even the 10' pedestrian easement would be difficult along Industrial Boulevard due to the location of the parking lot, but could be created on Wiltshire Boulevard.

Mr. Hefestay made a motion to approve the waiver request, as presented by the applicant. Mr. Ware seconded the motion, which carried unanimously.

9. **Review and Discuss** County Commission direction for the Planning Commission to review Section 8.20 of the Zoning Ordinance pertaining to Solar Energy Facilities and provide

recommended edits to the County Commission based on projects submitted thus far (see 12/21/23 CC Meeting Minutes).

Ms. Beaulieu explained the request from the County Commission to the Planning Commission regarding approved solar projects. Ms. Beaulieu provided staff recommendations that would require Solar Energy Facilities to process a Site Plan which would require posting a construction bond for site improvements such as landscaping and stormwater management.

The Planning Commission asked clarifying questions.

Ms. Beaulieu explained the current process and confirmed that the solar projects that have already obtained approvals under the current regulations would be grandfathered and permitted to continue under the current Zoning Ordinance. Ms. Beaulieu stated that any new regulations or standards adopted in the future would apply only to new proposals.

The Planning Commission provided suggestions to staff to increase buffer screen and setback requirements.

Mr. Shepp made a motion for staff to draft site plan requirements for Solar Farms and to bring it back to the Planning Commission for review. Mr. Hefestay seconded the motion, which carried unanimously.

Mr. Shepp also requested for Staff to reach out to Blake Solar to schedule a tour of the Solar Facility with the Planning Commission.

10. Discussion and Recommendation: FY24 1st and 2nd Quarter Quarterly Report to County Commission.

Mrs. Brockman provided an overview of the FY24 1st and 2nd Quarter Quarterly Report.

Mr. Louthan made a motion to approve the FY24 1st and 2nd Quarter Quarterly Report and forward it to the County Commission. Mr. Hefestay seconded the motion, which carried unanimously.

11. Discussion and Action: Planning Commission recommendation to the County Commission regarding the proposed budget for fiscal year 2024/2025 for the Department of Engineering, Planning, and Zoning.

Ms. Beaulieu provided an overview of the proposed budget for fiscal year 2024/2025 for the Department of Engineering, Planning, and Zoning. Ms. Beaulieu also explained the proposed updates to application fees that process through the Office of Planning and Zoning.

Mr. Hefestay made a motion to approve the proposed budget for fiscal year 2024/2025 for the Department of Engineering, Planning, and Zoning. Mr. Louthan seconded the motion, which carried unanimously.

12. Discussion and Possible Action: Regarding potential Joint County Commission and Planning Commission meeting regarding the Comprehensive Plan Update status, Goals, and Objectives.

Mr. Seigfried discussed his request to have a Joint County Commission and Planning Commission meeting regarding the Comprehensive Plan Update status, Goals, and Objectives in the spring.

Mr. Shepp directed staff to submit an agenda request for a Joint County Commission and Planning Commission meeting on April 4, 2025.

13. Discussion and Possible Action: Planning Commission Policy related to ZOOM Planning Commission meetings

Mrs. Brockman explained to the Planning Commission the current policy and current Bylaw requirements related to ZOOM Planning Commission meetings. Mrs. Brockman asked the Planning Commission if they were interested in having staff draft an amendment to the by-laws regarding applicants attending meetings via ZOOM.

Mr. Shepp made a motion for staff to draft an amendment which allows the Planning Commission members to attend meetings via ZOOM, and under special circumstances to allow everyone to attend Planning Commission meetings via ZOOM, for the Planning Commission's consideration at their March meeting. Mr. Hefestay seconded the motion, which carried unanimously.

14. 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. Update from Legal Counsel regarding County Commission actions on December 21, 2023 including obtaining ethics opinion regarding committee.

Mr. Cochran discussed the response he received for Item E under 'Reports from Legal Counsel' to the Planning Commission regarding the opinion of the WV Ethics Commission on Planning Commission Committees and/or Sub-committees. Mr. Cochran provided staff with a copy to be placed in today's meeting minutes.

Mr. Stolipher stated that he also reached out the WV Ethics Commission on Planning Commission Committees and/or Sub-committees and will provide a copy of the informal decision to staff to be placed in today's meeting minutes (attached).

Mr. Stolipher made a motion to join in the County Commission's request for a formal decision from the WV Ethics Commission regarding the Planning Commission's Committees and/or Sub-committees. Mr. Hefestay seconded the motion, which carried unanimously.

15. Planner's Memo

Mrs. Brockman informed the Planning Commission that staff went to visit Shepherd Village located in Shepherdstown. Mrs. Brockman made staff recommendation regarding the *2045 Comprehensive Plan*.

Mr. Shepp made a motion for staff to reach out to the Shepherd Village and invite them to speak at a future Planning Commission meeting. Mr. Stolipher seconded the motion, which carried unanimously.

Mr. Seigfried reminded the Planning Commission of the required 2-hour annual training and discussed various ways to accomplish this requirement.

16. President's Report

- a. **Discussion and Possible Action:** Regarding potential amendment to Division 24.300 of the Subdivision Regulations regarding Waiver Process

Mr. Shepp made a motion to request staff to draft an amendment to the Subdivision Regulations to would permit public testimony during the Waiver process for the Planning Commission's consideration at their March meeting. Mr. Hefestay seconded the motion, which carried unanimously.

- b. **Discussion and Possible Action:** Regarding potential policy related to Planning Commission Committee and Subcommittee Meetings

Mr. Shepp made a motion to request staff to draft a policy to make all committee and subcommittee meetings open to the public with an agenda and meeting minutes for the Planning Commission's consideration at their March meeting. Mr. Stolipher seconded the motion, which carried unanimously.

17. Actionable Correspondence

18. Non-Actionable Correspondence

1. Mike Wiltshire dated February 2, 2024.
2. Tim Wiltshire dated February 2, 2024.

Mr. Shepp made a motion to adjourn the meeting at 8:27 pm. Mr. Hefestay seconded the motion, which carried unanimously.

These minutes were prepared by Michelle Evers, Planning Clerk.