

## Meeting Minutes

Jefferson County Planning Commission  
May 7, 2024

The Jefferson County Planning Commission met on May 7, 2024 at 7:00 pm with the following Planning Commission members present: Mike Shepp, President; Aaron Howell, Vice President; Jack Hefestay, Tim Smith, J Ware, Cara Keys, and Steve Stolipher, County Commission Liaison.

Wade Louthan was absent with notice; Donnie Fisher was absent without notice.

Staff members present included Jennifer Brockman, Chief County Planner; Alexandra Beaulieu, Deputy Director and Zoning Administrator; Jonathan Saunders, County Engineer; Luke Seigfried, County Planner. Steve Groh, Assistant Prosecuting Attorney was available via ZOOM for the majority of the meeting; Nathan Cochran, Assistant Prosecuting Attorney was present in person for the end of the meeting.

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

### **1. Approval of Meeting Minutes: April 9, 2024**

Mr. Shepp stated the minutes stand approved without objection.

### **2. Request for postponement.**

Ms. Brockman stated that Waiver Request #24-16-PCW (Agenda Item #9) was withdrawn from the agenda by the applicant.

Mr. Shepp stated that he would be re-arranging the agenda such that Items #4, 5, 6, and 10 would be discussed before Item #3.

Mr. Howell recused himself from Items #4, 5, and 6 due to a potential conflict of interest.

### **4. Waiver Request** from Section 10.5A of the Subdivision Regulations to allow a gravel parking area as opposed to an asphalt/concrete (paved) parking lot for public use to allow for the expansion of the existing Devil's Due Distillery. Property Owner: Shenandoah Valley Holdings LLC / Applicant: Devil's Due Distillery; Property Location: 315 James Burr Blvd, Kearneysville, WV 25430; Parcel ID: 02000101330000; Size: 2.83 acres; Zoning District: Industrial Commercial (File: 24-11-PCW).

Ms. Brockman provided an overview of the staff report.

Mr. Lane Tobin, Staff Consultant for Civil & Environmental Consultants, Inc., explained the nature of the request to the Planning Commission. He stated that the request would be to utilize gravel in the first phase with the proposal to add a note on the plat that the parking lot would be asphalt paved in the second phase.

Mr. Shepp requested input from the County Engineer. Mr. Saunders stated that engineering staff were not in support of a gravel parking lot and recommended asphalt.

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

### **5. Waiver Request** from Section 2.3B.5 of the Subdivision Regulations to allow an asphalt apron entrance as opposed to the required concrete apron to allow for the expansion of the existing Devil's Due Distillery; Property Owner: Shenandoah Valley Holdings LLC / Devil's Due Distillery; Property Location: 315 James Burr Blvd, Kearneysville, WV 25430; Parcel ID: 02000101330000; Size: 2.83 acres; Zoning District: Industrial Commercial (File: 24-12-PCW).

Ms. Brockman provided an overview of the staff report.

Mr. Lane Tobin, Staff Consultant for Civil & Environmental Consultants, Inc., explained the nature of the request to the Planning Commission.

Mr. Shepp requested input from the County Engineer. Mr. Saunders stated that engineering was in support of the request to utilize asphalt in lieu of concrete based on the understanding that heavy truck traffic was not anticipated at this entrance for the proposed business.

Mr. Shepp made a motion to approve the request as presented. Mr. Stolipher seconded the motion, which carried unanimously.

6. **Waiver Request** from Section 20.201B.3 of the Subdivision Regulations to reduce the required access width of Stone Pillar Lane from 50' to 30' for a proposed three lot Family Transfer Subdivision. Property Owner/Applicant: P F K LLC; Property Location: Vacant Lot on Stone Pillar Lane, Charles Town, WV; Parcel ID: 02001300040000; Size: the 39.17 acre portion of the 52.33 acre tax parcel; Zoning District: Rural (File: 24-13-PCW).

Mr. Shepp recused himself from this agenda item, stating a potential conflict of interest. The Planning Commission noted that Mr. Howell, Vice President had also recused himself from this item and Mr. Wade Louthan, Secretary was absent. Mr. Smith made a motion to have Steve Stolipher preside over this item. Mr. Ware seconded the motion, which carried unanimously.

Mr. Seigfried provided an overview of the staff report.

Mr. Paul Raco, Land Use Consultant with P.J. Raco Consulting, LLC, explained the nature of the request to the Planning Commission and proffered that the applicant would upgrade the existing road bed for a distance of 150' if the HOA agrees and stated that the stone pillars would remain.

Mr. Hefestay made a motion to approve the request as presented, with the condition the applicant will retain the existing stone pillars and upgrade the existing roadbed of Stone Pillar Lane back 150 feet from Earle Road provided the neighbors are in agreement, as proffered by the applicant. Mr. Smith seconded the motion, which carried unanimously.

Mr. Shepp returned to the meeting room.

10. **Site Plan approval and Issuance of the Improvement Location Permit.** The proposal consists of the construction of a private community pool and clubhouse with associated parking for the Beallair Subdivision. Property Owner: Beallair Community Conservancy Inc. Applicant: Piedmont Design Group; Property Location: 480 Beallair Manor Dr., Charles Town, WV; Parcel ID: 04010ACOMM0000; Zone: Residential Growth; Size: 3.31 acres (File: 23-10-SP).

Ms. Brockman provided an overview of the staff report and reminded the Planning Commission that the Beallair Subdivision is processing under the 1979 Subdivision Ordinance and the 1978 Improvement Location Permit Ordinance.

Mr. Mike Wiley with Beallair Homes explained the nature of the request and explained that a Community Committee had helped with the design which includes a Club House which includes a pool house component and an upstairs exercise area for the neighborhood.

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

Mr. Howell returned to the meeting room.

3. **Public Workshop:** A Concept Plan for the Birdhill Subdivision. The proposal consists of a Major Residential Subdivision with 720 lots (324 single family detached and 396 attached townhome lots) and associated infrastructure. Property Owner/Applicant: Jefferson Orchards Inc.; Property Location: Vacant parcel located .35 miles northeast of the intersection of Charles Town Road and Kearneysville Pike, Kearneysville, WV; Parcel ID: 07000300290000; Size: 195.52 acres; Zoning District: Residential Growth (File: 24-12-SD).

Ms. Brockman provided an introduction to the request, noting the general location of the proposed project and recommended that the applicant provide an overview of the Concept Plan and the two waivers in one presentation, noting that the Planning Commission would need to take separate action on each application.

Ms. Brooke Perry and Mr. Mark Dyck, with Integrity Federal Services, explained the nature of the two waiver requests and the Concept Plan.

Ms. Perry provided an overview of the Concept Plan, noting that the proposed subdivision would be completed in four phases. She stated that three entrances were proposed for the subdivision, with the first two being completed in Phase I and the third entrance being completed during Phase II.

Mr. Shepp asked if the residue parcel would be developed.

Mr. Dyck stated that the current plan is to retain the residue area in open space.

Mr. Shepp opened the Public Comment portion of the Public Workshop. The following members of the public provided public comment:

1. Diane Blust, Harpers Ferry
2. Marellen Aherne, Shepherdstown
3. Brian Lowery, Kearneysville
4. Paula Bain, Kearneysville
5. Alex Bain, Kearneysville
6. Jim Cummins, Bakerton
7. David Rampy, Shepherdstown
8. Linus Bicker, Shepherdstown
9. Leah Rampy, Shepherdstown
10. Annette van Hilst, Shepherdstown
11. Lynn Delles, Ranson
12. Kirsten Lee, Kearneysville
13. Amanda Wallace, Kearneysville
14. Phil Baker-Shenk, Shepherdstown
15. Kay Schultz, Shepherdstown
16. Walter Walls, Kearneysville
17. Dannie Wall was signed up to speak, but stated she forfeited her time and did not provide public testimony.
18. Wayne Braunstein, Kearneysville

19. Ned Marshall, Shenandoah Junction
20. James & Dawn Welsh, Kearneysville
21. Charlotte Baker-Shenk, Shepherdstown
22. Paul Baltrunas, Kearneysville
23. Renee Martin, Bakerton
24. Erik Wolf, Kearneysville
25. Margaret & Terry Walker, Kearneysville
26. Robin Huyett Thomas, Charles Town
27. Addison Reese, Shepherdstown
28. Michael Azar, Kearneysville
29. Karen Freer, Shenandoah Junction
30. Daniel Frye, Kearneysville
31. Christine Wimer, Ranson
32. Colin Stine, Shepherdstown

Mr. Shepp closed the public comment portion of the Public Workshop. Mr. Shepp invited the applicant representatives back up to provide a rebuttal.

Mr. Dyck and Ms. Perry provided a rebuttal and addressed several of the public comments including but not limited to the following:

- Mr. Dyck stated that the traffic impact study had been completed and was submitted to the WV Division of Highways. He noted that the DOH is still reviewing the report.
- Mr. Dyck stated that the development would comply with the County's adopted Stormwater Management Ordinance, which includes provisions for karst topography. He noted that stormwater management would be designed to pre-development calculations.
- Mr. Dyck stated that regarding the waiver for block length, the development footprint would not change if the request was denied, but would result in more roads and increase in impervious surface area.
- Mr. Dyck stated that regarding the waiver for lot width, the minimum lot size would not be reduced, but the lots would be longer with larger backyards which the market supports.
- Mr. Dyck stated that West Virginia American Water verified that they would be able to provide service for water. He stated that there would not be any drainage fields as Charles Town Utility Board would provide sanitary sewer service.
- Mr. Dyck stated that the applicant would proffer a six foot fence along certain sections of the property line and submitted an exhibit which was incorporated as part of the record. He said they would be happy to discuss the type of fencing with the adjoining property owners.

Mr. Shepp asked if a pump station would be constructed. Mr. Dyck stated that one pump station would be constructed across from Rockwool.

Mr. Shepp made a motion to approve the request as presented, conditioned upon the proffers made by the applicant including fencing, additional access to the common open space area, and that the recreational areas will be detailed on the Preliminary Plat for Phase I. Mr. Stolipher seconded the motion. The motion carried with six (6) in favor and one (1) opposed (Ms. Keys).

7. **Waiver Request** related to Birdhill Subdivision, from Article 21, Section 21.101A, which requires the blocks shall not, in most instances, exceed six lots in length on one side of the street. Property Owner/Applicant: Jefferson Orchards Inc.; Property Location: Vacant parcel located .35 miles northeast of the intersection of Charles Town Road and Kearneysville Pike, Kearneysville, WV; Parcel ID: 07000300290000; Size: 195.52 acres; Zoning District: Residential Growth (File: 24-14-PCW).

Ms. Brockman provided an overview of the staff report.

Mr. Mark Dyck and Ms. Brooke Perry with Integrity Federal Services explained the nature of the request and stated that the development footprint would not change if the request was denied, but would result in more roads and increase in impervious surface area.

Mr. Stolipher made a motion to approve the request as presented with the condition that additional access points would be shown for the common open space area. Mr. Shepp seconded the motion, which carried unanimously.

8. **Waiver Request** related to Birdhill Subdivision, from Article 21, Section 21.104A of the Subdivision Regulations, which requires the minimum frontage shall be the minimum lot width for the Zoning District or 80 feet, whichever is less. Property Owner/Applicant: Jefferson Orchards Inc.; Property Location: Vacant parcel located .35 miles northeast of the intersection of Charles Town Road and Kearneysville Pike, Kearneysville, WV; Parcel ID: 07000300290000; Size: 195.52 acres; Zoning District: Residential Growth (File: 24-15-PCW).

Ms. Brockman provided an overview of the staff report.

Mr. Mark Dyck and Ms. Brooke Perry with Integrity Federal Services explained the nature of the request and stated that the minimum lot size would not be reduced as a result of the reduction in the minimum lot frontage, but the lots would be longer with larger backyards which the market supports.

Mr. Stolipher made a motion to approve the request as presented. Mr. Howell seconded the motion. The motion carried with six (6) in support and one (1) opposed (Ms. Keys).

9. **Waiver Request**, related to Birdhill Subdivision, from Article 24, Section 24.113.B.10 of the Subdivision Regulations, to request to waive the Phase I Archaeological Survey requirement for Preliminary Plats. Property Owner/Applicant: Jefferson Orchards Inc.; Property Location: Vacant parcel located .35 miles northeast of the intersection of Charles Town Road and Kearneysville Pike, Kearneysville, WV; Parcel ID: 07000300290000; Size: 195.52 acres; Zoning District: Residential Growth (File: 24-16-PCW).

This application was withdrawn by the applicant. No action was taken on this item.

11. **Discussion and Action on the Cochran Mill Road, LLC Zoning Map Amendment Request:**

Planning Commission review and recommendation to the County Commission regarding whether the petition for a Zoning Map Amendment to rezone a 20.2-acre portion of the Sunnyside Industrial Park from Industrial-Commercial to Residential-Light Industrial-Commercial is consistent with the *2035 Comprehensive Plan*. Owner/Applicant: Cochran Mill Road, LLC (Lots 6 and 7). Property Location: two vacant lots located off Kanawha Lane within Sunnyside Industrial Park, south of Wheatland Road, west of the Norfolk Southern railroad tracks;

Parcel ID: 06001200120006 and 06001200120007; Combined acreage: approximately 20.2 acres; Zoning District: Industrial-Commercial (File: 24-1-Z).

Ms. Brockman provided an overview of the staff report, an overview of the relevant portions of the *Envision Jefferson 2035 Comprehensive Plan*, and the requirements of WV Code 8A and Article 12 of the Jefferson County Zoning Ordinance. She stated that staff finds that the request is reasonably consistent with the *Envision Jefferson 2035 Comprehensive Plan*.

Mr. Mark Dyck and Ms. Brooke Perry with Integrity Federal Services explained the nature of the request.

Ms. Keys made a motion that the Planning Commission finds that the proposed zoning map amendment to be consistent with the *Envision Jefferson 2035 Comprehensive Plan* to be forwarded. Mr. Howell seconded the motion, which carried unanimously (6-0 as Mr. Hefestay was not in the meeting room when the vote occurred).

**12. Discussion and Possible Action:** Draft amendments to the Bylaws of the Jefferson County Planning Commission for discussion and possible action:

- a. Section 2.4 “Committees” related to public notice and records for Planning Commission Committee and Subcommittee meetings.
- b. Section 5.1 “Voting” related to the use of a video conferencing program for regular and special meetings

Mr. Shepp postponed this item until the June 11, 2024 meeting.

**13. Reports from Legal Counsel**

No legal updates or reports were provided.

- 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.

**14. Planner’s Memo**

Ms. Brockman reminded the Planning Commissioners that the final public input meeting for the Comprehensive Plan update is Monday, May 13, 2024.

**15. President’s Report**

Mr. Shepp requested that staff notify Planning Commissioners by email when a large project is submitted so that they have sufficient time to review the proposal in preparation for the meeting.

## **16. Actionable Correspondence**

No action was taken on the below correspondence, which was included in the agenda packet. Mr. Shepp requested that staff include the correspondence in the June 11, 2024 agenda packet.

- Email from Noah Mehrkam dated February 25, 2024.
- Email from Karen Twigg Sagisi dated March 1, 2024.
- Email from Roberta N. Meade Curry dated March 2, 2024.
- Email from Jean C Zigler-Kotch dated March 18, 2024.
- Email from Mary Gee dated April 2, 2024.
- Email from Gillian Vickers dated April 2, 2024.
- Email from Dave Lutman dated April 10, 2024.
- Email from Kay Shultz dated April 10, 2024.

## **17. Non-Actionable Correspondence**

- Email from Alan Dattelbaum dated April 16, 2024.

Mr. Stolipher made a motion to adjourn the meeting at 10:00 pm. Mr. Howell seconded the motion, which carried unanimously.

These minutes were prepared by Alexandra Beaulieu, Deputy Director and Zoning Administrator.