

## Meeting Minutes

Jefferson County Planning Commission

November 12, 2024

The Jefferson County Planning Commission met on November 12, 2024, at 7:00 pm with the following Planning Commission members present: Mike Shepp, President; Steve Stolipher; County Commission Liaison, Wade Louthan, Secretary; J Ware Jack Hefestay, Cara Keys, Tim Smith, and Donnie Fisher were present in person. Aaron Howell, Vice President; was present via ZOOM.

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

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

### 1. **Approval of Meeting Minutes:** October 8, 2024 Meetings

Mr. Shepp stated the minutes stand approved as presented. Mr. Shepp requested to move Items 4, 5, and 6 up to give the members of the public not present for Item 3 the ability to leave.

[The motion to rescind and related discussion occurred after the Planning Commission moved to Agenda Item 6. Additional detail can be found in Agenda Item 6 below.]

### 2. **Request for postponement.** None.

The following items are open for public comment.

### 3. **Public Hearing:** Waiver Request from Section 24.112C of the Subdivision Regulations to extend the two year vesting period for approved Major Subdivision Concept Plans, which requires that a preliminary plat must be submitted and approved within the two year period of time for which the concept plan direction is in effect, extending to November 15, 2026 for the Sunnyside Major Subdivision. Property Owners: Sunnyside Investment, LLC; Sunnyside Industrial Park Lots 1-5 & 8-11 (9 existing lots) located on Kanawha Lane, south of Wheatland Road, Charles Town, WV; Tax District: Kabletown (06); Map: 12; Parcels: 12, 12.2, 12.3, 12.4, 12.5, 12.8, 12.9, 12.10, 12.11; Size: ~53 acres (combined acreage); Zoning District: Residential-Light Industrial Commercial (File #24-27-PCW).

Mr. Seigfried provided an overview of the staff report.

Mr. John Thomas, property owner, and Dirk Stansbury, consultant, were present in person. Mr. Thomas explained the nature of the request.

Mr. Shepp opened the public hearing. No members of the public were signed up to speak. Mr. Shepp closed the public hearing.

Mr. Stolipher noted that should the subdivision regulations or zoning ordinance be updated before 2026, the proposed Site Plan would be subject to those approved rulings.

Mr. Fisher moved to approve the request as presented. Mr. Smith seconded the motion, which carried unanimously.

### 4. **Public Hearing:** Waiver Request from Section 20.203B of the Subdivision Regulations to allow the opening of the park property prior to processing a Concept Plan and Site Plan and prior to initiating any improvements on the property. Property Owners: Jefferson County Parks and Recreation Commission / Contact: Jennifer Myers; 1123 Bloomery Road, Charles Town, WV; Parcel ID: 02002000020000; Size: 82 acres; Zoning District: Rural (File # 24-28-PCW).

Mr. Seigfried provided an overview of the staff report.

Ms. Jennifer Myers, property owner, and Mr. Matt Pennington, consultant, were present in person. Mr. Pennington explained the nature of the request.

The Planning Commission had no clarifying questions.

Mr. Shepp opened the public hearing. One member of the public was signed up to speak, who clarified they signed up for the wrong agenda item. Mr. Shepp closed the public hearing.

Mr. Stolipher moved to approve the request as presented. Mr. Howell seconded the motion, which carried unanimously.

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

**5. Discussion and Action on the Harvest Homes, 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 three Media Farm properties totaling 127+/- acres from Rural to Residential Growth is consistent with the *2035 Comprehensive Plan*.

Owner/Applicant: Harvest Homes, LLC. Property Location: 261 Media Farm Lane, Ranson, WV (Parcel ID: 02000400110000), 391 Media Farm Lane, Ranson, WV (Parcel ID: 02000400110001); and, 278 Media Farm Lane, Ranson, WV (Parcel ID: 02000400130000). Combined acreage: approximately 127 acres; Zoning District: Rural (File #24-2-Z). Mr. Shepp recused himself from this Item due to a connection with the property.

Mr. Seigfried provided an overview of the staff report.

Mr. Dave Lutman, applicant, and Mr. Paul Raco, consultant, were present in person. Mr. Raco and Mr. Lutman explained the nature of the request.

Mr. Hefestay questioned whether the applicant or the consultant has spoken with the Historic Landmarks Commission. Mr. Shepp reminded the Commission the purpose of the vote was to determine if the request was in conformance with the comprehensive plan and provide that recommendation to County Commission.

Mr. Fisher moved to approve the request as presented. Mr. Louthan seconded the motion, which carried unanimously.

**The following items are open for public comment.**

**6. Public Workshop:** Mountain Pure Concept Plan for a Major Site Development. The proposal consists of the following: Phase 1: a 304,000 square foot water bottling facility with associated parking on a proposed 30-acre parcel; and, Phase 2: a 696,000 square foot water bottling facility with associated parking on a proposed 66-acre parcel. The proposal will include the required stormwater management facilities. Property Owners: Sidewinder Enterprises, LLC; 1 Grace St, Kearneysville, WV; Parcel ID: 07002200090000; Size: ~260 acres; Zoning District: Industrial Commercial (File #24-6-SP).

Mr. Shepp provided an overview of the public workshop process.

Mr. Seigfried provided an overview of the staff report.

Mr. Mark Dyck, representative of the property owner, and Mr. Jason Gerhart, engineer, were present in person. Mr. Dyck explained the nature of the request.

Mr. Ware expressed concern over the amount of water being pumped during a well testing and a baseline amount that would be implemented if approved. Mr. Shepp expressed concern over traffic in

Middleway. Mr. Stolipher noted that at a previous County Commission meeting there was approval for a traffic signal at the intersection of Middleway Pike and Leetown Road. Mr. Fisher expressed concern regarding how the water would be brought from Lake Louise to the proposed site. Mr. Dyck, Mr. Gerhart, and Mr. (Triad Engineer), an engineer consulting with Triad Engineering responded to the questions posed by Planning Commission. Mr. Shepp opened the floor for public comment.

The following members of the public provided testimony:

Lynn Welsh, Mary Gee, Stacy Chapman, Nicole Chapman, Shawn Franklin, Melissa Carder, Jessie Norris, John Wharton, Daniel Lutz, David Tabb, Laura Paxton, Susie Wimer, Lynn Dulles, Kendra Clark, Rebecca Thompson, Pat Phillips, Sue Covello, Giuliana Brogna, Maura Ross, Christine Wimer, Bille Garde, Christine Marshall, Ron Shade, Tamar Liskey, Margaret Liskey, Suellen Myers, Anne Bowers, Joslyn Noland, Robert Pitcher, Tina Michael, Carrie Blessing, Faith Rice, Troy Miller, Don Rebmann, Rebecca Meade, Benjamin Buckley, Brian Lowery, Bob Tabb, Natalie Grathnam, Barbara Smith, Timothy Smith, Kay Schultz, Lindsay McLaughlin, Leah Rampy, David Rampy, Cheryl Middleton, Jacquelyn Milliron, Monica Taylor, Phyllis Grantham, Maria Russo, Brent Walls, Linda Newsome, Andrew Upright, Lawrence Wright, Greg Uhass, and Rebecca Kipson.

Mr. Shepp closed the public workshop and motioned to take a recess at 10:18 pm.

Mr. Shepp opened the meeting at 10:26 pm.

Mr. Shepp asked for clarification from staff regarding the zoning of the property. Ms. Brockman provided clarification and her zoning decision stated that staff interpreted the bottling facility as a manufacturing operation, a principally permitted use in the Industrial/Commercial district.

Mr. Cochran provided the Planning Commission with an overview of next steps the Commission could make regarding the concept plan.

Addressing the public's concerns regarding health and safety, Mr. Dyck provided the Planning Commissioners with portions of West Virginia state code and diagrams of previous well testing that took place in the surrounding area. Mr. Gerhart also discussed the difference between 6 lots and 4 lots regarding the concept plan and explained the purpose of 3 wells being established as a precautionary measure.

Mr. Nick Wolf, representative from Triad Engineering, discussed the geology of Jefferson County in regards to well placements. Mr. Wolf also noted there would be no production well or plume migration on site, with just a well monitoring plant being located at this location.

Ms. Keys expressed concern regarding zoning and use in this site. Mr. Ware discussed adding a limitation on well depth for Mountain Pure opposed to having wells go deeper than Middleway citizens living in the area.

Mr. Ware expressed concern regarding the local water table and how multiple wells in the area may impact on the citizens of Middleway. Mr. Ware also proposed that the applicant could drill down to a distance higher than the private use wells in the area to allow for a safety buffer. The condition would ensure that if the applicant draws water above the static water line then the applicant will be impacted by the lower water table, rather than the people living in the area. Mr. Dyck was unable to make a commitment without discussing with the applicant. Mr. Ware also expressed concern regarding lack of community outreach before the Planning Commission meeting.

Mr. Shepp asked the applicant to clarify the access to water, effect of the project on historic Middleway, access road use, traffic direction at the intersection of Middleway Pike and Leetown Road, and limits for the amount of water on the Concept Plan. Multiple Planning Commissioners expressed concern of running water 24 hours a day for a full year and the long term impacts that could be made. Mr. Stolipher noted a water study was scheduled to happen in winter 2025. Mr. Louthan questioned when the previous water test was held, expressing concern over it being conducted in winter 2022.

Mr. Stolipher questioned the applicant's legal right to extract and use water out of Lake Louise. Mr. Cochran explained that Section 22.6.3 of state code claims waters of the State of West Virginia are claimed as valuable public natural resources held by the state for the use and benefit of its citizens. Mr. Fisher questioned the current traffic study and how it may relate to the amount of trucks leaving the facility. Commission members also questioned the need to have water moved from Berkeley County, West Virginia. Mr. Smith questioned the production timeline of new wells being added to properties being impacted by the new plant and the limit of requesting a new well within 2 years of production. Mr. Fisher questioned staff on if they would consider the proposed Concept Plan complete with the new information provided the night of, Mr. Seigfried approved of the completeness in accordance of the Subdivision Regulations brought before the Planning Commission.

Mr. Shepp asked for clarification regarding whether or not the Planning Commission could deny the proposed Concept Plan. Mr. Cochran reiterated that the Planning Commission could vote on the proposal now or postpone to allow for more fact checking regarding the controversial nature of the project. The vote would determine whether the application is complete and provide direction on preparing the Site Plan or find the application to be incomplete and allow for the applicant to resubmit at a later date.

The Planning Commission discussed what they would deem complete vs. The Planning Commission determined that incompleteness includes lack of clarity in how the water is navigating from Lake Louise to the 3M site, identifying where the wells are located, identifying issues regarding monitoring wells, and identifying parameters regarding well depth and impact on Middleway residents.

Ms. Keys motioned to find the Concept Plan incomplete due to the omission of two parcels relevant to the project from the plan. Mr. Louthan seconded the motion, which carried unanimously.

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

**7. Discussion and Recommendation:**

Ms. Brockman explained staff proposed updates to the Solar Energy Facility Ordinances.

Ms. Keys motioned for staff to return with specific language regarding Site Plans at a future Planning Commission meeting. Mr. Shepp seconded the motion, which carried unanimously.

**8. Discussion and Recommendation:**

Mr. Seigfried explained the proposed budget recommendation used by the Department of Engineering, Planning, and Zoning for the Fiscal Year of 2026. No Commissioners had any input.

**9. Discussion and Recommendation:**

Ms. Brockman explained the 1<sup>st</sup> Quarter Quarterly Report for Fiscal Year 2025 to the Planning Commission. Planning Commission chose to send it to County Commission.

**10. Reports from Legal Counsel**

No reports given.

**11. Planner's Memo**

Mr. Seigfried gave a results recap of the Planning Commissioner Self Evaluation Review that members took during the October 8, 2024 meeting. Mr. Seigfried also noted future training topics Planning Commissioners were interested in.

Mr. Seigfried provided Planning Commissioners with a copy of the 2025 Meeting Schedule and Deadlines for the Planning Commission.

**12. President's Report**

Mr. Shepp noted that this was the last meeting Ms. Brockman would be attending on account of her retiring in December. Planning Commissioners and staff gave Ms. Brockman a round of applause and wished her luck in her future endeavors.

**13. Actionable Correspondence**

None.

**14. Non-Actionable Correspondence**

None.

Mr. Fisher motioned to adjourn the meeting at 12:06 am. Mr. Smith seconded the motion, which carried unanimously.

These minutes were prepared by Colin Uhry, Planning & Zoning Clerk.