



JEFFERSON COUNTY, WEST VIRGINIA

Office of Planning and Zoning

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MEMO

TO: Planning Commission of Jefferson County
FROM: Luke Seigfried, Chief County Planner
DATE: May 13, 2025
RE: Proposed Amendment to Section 24.113.B.10 of the Subdivision & Land Development Regulations.

At their April 29, 2025 meeting, Planning Commission proposed revising the Subdivision Regulations to further elaborate on establishing the necessary criteria regarding Historical Resource Protection. Commissioner Hayes has provided staff with draft text which has been included as an attachment. The following amendment has been drafted by County Staff and is for the Planning Commission's discussion and consideration.

Note that Subdivision & Land Development Regulations currently states "(10) A Phase I archaeological study is required. A historic resources impact study shall also be included."

Staff Reports and Comments

The Historic Landmarks Commission (HLC) has provided a letter with their recommendation to require subsurface testing and consultation with a licensed archaeologist in the drafting of this text amendment. The HLC also notes that the proposed language contradicts the West Virginia State Historic Preservation Office (SHPO) Guidelines and should be amended. The HLC has sent the Planning Commission letters in the past supporting the requirement of a Phase I archaeological study for Major Subdivisions and is included as an attachment. At the discretion of the Planning Commission, staff can be directed to consult with the HLC or provide the HLC time to present before the Planning Commission.

A Phase I archaeological study is not defined in the Subdivision Regulations but the West Virginia State Historic Preservation Office (SHPO) has Guidelines for preparing the *Phase I, II, III Archaeological Investigations and Technical Report Preparation*. These *Guidelines* are for ensuring a project's compliance with Section 106 of the National Historic Preservation Act (NHPA). SHPO reviews state and federal projects for compliance with NHPA.

A historic resources impact study is not defined in the Subdivision Regulations and was added to the Subdivision Regulations in 2010.

The 2045 Comprehensive Plan does not speculate specifically on this requirement for Preliminary Plats. Objective 4.1 (see attached) "*Encourages the utilization of existing historic and agricultural areas for a variety of uses in ways that respect their historical function or setting.*" The requirement is not included for Minor or Major Site Plans. Staff has proposed changing the requirement for Major Subdivisions, adding the requirement for Major Site Plans, and adding a definition to the Subdivision Regulations.

“Section 24.133 Major Subdivision Preliminary Plat – Application Submission and Completeness Review

The submission of a preliminary plat application is a required step for major subdivisions. The ~~staff Department~~ shall have 45 days to complete the sufficiency and completeness review unless the applicant chooses to waive the 45 day period. Within the 45 days, the ~~staff Department~~ shall have ten (10) days to review the submission and determine whether it is sufficient (at least 70% of the required elements are addressed) in that it includes all of the items listed below. If the submission is insufficient, it shall be returned to the applicant. The 45 day period shall restart when the applicant resubmits. After staff concludes completeness review, staff shall place the preliminary plat and application on the next regularly scheduled Planning Commission agenda for a vote to accept or deny the application as complete. In order for the preliminary plat to remain on the scheduled Planning Commission meeting, all reviewing material, including outside agency reviews, shall be returned to the Office of Planning and Zoning at least 14 days prior to the scheduled Planning Commission.

- A. **Submission.** The applicant is responsible for submitting an application and all supporting documents to the Department and reviewing agencies. It shall be accompanied by the fee for preliminary plat review.
- B. **Submission Contents.** The submission shall contain the following elements in the number of copies indicated.
 1. **Preliminary Plat.** A preliminary plat application shall be submitted in accordance with the content and formatting guidelines provided in Appendix A, *Plan & Plat Standards*.
 2. **Density Calculation and Site Resource Map.** This map shall have the preliminary plat on it and shall identify the total area of each resource present, the amount protected and a summary table showing that the resource protection standards are met.
 3. **General Location.** A map or aerial photograph showing an area of 500 feet around the property. Zoning boundaries shall be located on this document.
 4. **Preliminary Engineering Plans.** An engineering plan shall be submitted in accordance with the content and formatting guidelines provided by the County Engineer.⁶
 5. **Preliminary Landscape Plans.** A landscape plan shall be submitted in accordance with the content and formatting guidelines provided by the Department.
 6. **Transportation Impact Study.** If required, TIS and materials agreed to at the Concept Plan direction shall be submitted prior to final preliminary plat approval by staff. This element is not required for completeness review.
 7. **Well and Septic Systems.** Where applicable, preliminary plats shall include well and septic provisions and all appropriate Jefferson County Health Department approvals. This element is not required for completeness review. However, final Health Department (State and Local) approval is necessary prior to final Preliminary Plat approval by Staff.
 8. **Feasibility of Water and Sewer Systems.** Where applicable, preliminary plats shall include connections to existing water and sewer systems or provisions for these systems and for oversizing to serve additional properties. This shall include comments or material from the Jefferson County Public Service District regarding the impact study and any responses from the developer's engineers. Capacity letters are required at completeness stage, but final approvals are necessary prior to final Preliminary Plat approval by Staff.
 9. **Special Engineering.** Special engineering studies are required if the site is in or partially in areas designated as high vulnerability areas. If other natural resources have specific resource protection standards contained in the Zoning Ordinance, a preliminary engineering assessment shall be provided regarding how those standards can be met.

10. **Historic Resource Preservation.** ~~A Phase I archaeological study is required. A historic resources impact study shall also be included.~~ Submit a Phase I archaeological study in accordance with the West Virginia State Historic Preservation Office Guidelines for Phase I, II, and III Archaeological Investigations. A site file search, cultural resource investigation, literature review, and documentation of archaeological sites are required. Subsurface studies are not required under this section.
11. **Proposal Description.** This shall be a written description of the proposal with general identification of the number of dwelling units or floor area proposed, commentary, zoning, ~~phasing~~, and development option selected if the development is residential.
12. **Stormwater Management Plan and Narrative.** A Stormwater Management Plan, as described in the Jefferson County Stormwater Management Ordinance, must be submitted as part of the preliminary plat to be reviewed by the Office of Engineering. This is a required element in the first submission or the submission will automatically be determined as incomplete.⁴
13. **Identified Concerns.** A report demonstrating how specific conditions identified in the concept plan evaluation and direction received from the Concept Plan public workshop have been addressed on the preliminary plat or will be addressed on the final plat documents.
14. **Names.** Name of applicant and of consulting firms, addresses, phone, e-mail, and person(s) to whom correspondence shall be addressed.
15. **Other Data.** Any other data the applicant believes will assist in the review. If there are proffers being offered, they shall be included here.
16. **Other Agency Reviews.** Agency reviews as to the technical, engineering, zoning, landscaping, impact fee, and other agency reports, comments, and recommendations.
- C. **Review Content.** The Department and agency reviews shall address the areas indicated in paragraphs D to F below and any other areas of concern to the agencies.
- D. **Department Review.** The Department review shall include the following:
 1. Whether the density, use, and plan meet the requirements of the Zoning Ordinance and any other zoning issues that can be identified at the preliminary plan submission. Staff shall identify conditions that must be adjusted if they would enable the plan to conform to Zoning and Subdivision Ordinance standards.
 2. Staff shall provide a written opinion as to whether the preliminary subdivision plat meets the site planning criteria specified in Articles 21 and 22 of these Regulations. In reviewing the submitted application, the Department shall determine whether the concept plan was fulfilled.
- E. **WVDOH.** The WVDOH approval is required prior to final Preliminary Plat approval by Staff.
- F. **Public Services.** The review shall indicate whether the preliminary engineering indicates that water and sewer can adequately be provided for the project and if a new system is provided, whether the proposal is sufficient to handle other development in the area. The Public Service District shall make recommendations for oversizing and methods to recapture costs.
- G. **Recommended Conditions.** All reviews shall contain recommended final engineering standards that shall be met to deal with specific issues or conditions that need to be addressed in final engineering, plat, landscape plan, or other documents.
- H. **Approval.** If the preliminary plat and application is incomplete, or the development cannot conform to the Zoning Ordinance, be serviced by public services or on-site utilities, or is otherwise impossible, the Planning Commission shall deny the same; otherwise, the Planning Commission shall find it complete and accept it. The Planning Commission may also accept the Preliminary Plat and application with the condition that the remaining items identified as necessary by these Regulations be completed prior to final Preliminary Plat approval.

Effect. After staff concludes the completeness review, staff shall place the preliminary plat on the next regularly scheduled Planning Commission agenda for a vote to accept or deny the application as complete. If the application is found complete or essentially complete, the Planning Commission shall schedule a public hearing within 45 days in accordance with Section 24.114, *Major Subdivision Preliminary Plat - Public Hearing*. If the application is incomplete, the applicant shall be notified in writing stating the reasons for denial.”

“Sec. 24.122 Major Site Plan Application - Submission and Completeness Review

The submission of a site plan application is a required step for all major site plans. ~~The staff~~ ~~The Department~~ shall have 45 days to complete the sufficiency and completeness review. Within the 45 days, the ~~staff~~ ~~Department~~ shall have ten (10) days to review the submission and determine whether it is sufficient in that it includes all of the items listed below. If the submission is insufficient, it shall be returned to the applicant. The applicant shall resubmit a sufficient application within 10 days after being notified of insufficiency. In order for the review to be complete within 45 days and remain on the scheduled Planning Commission meeting, all reviewing material, including outside agency reviews, shall be returned to the Office of Planning and Zoning at least 14 days prior to the scheduled Planning Commission. After staff concludes completeness, staff shall place the site plan on the next regularly scheduled Planning Commission agenda for a vote to accept or deny the application as complete.

- A. **Submission.** The applicant is responsible for submitting an application and all supporting documents to the Office of Planning and Zoning. It shall be accompanied by the fee for site plan review.
- B. **Submission Contents.** The submission shall contain the following elements in the number of copies indicated.
 1. **Site Plan.** The site plan shall be submitted in accordance with the content and formatting guidelines provided in Appendix A, *Plan & Plat Standards*.
 2. **Density Calculation and Site Resource Map.** This map shall have the site plan superimposed, and shall identify the total area of each resource present, the amount protected, and a summary table showing that the resource protection standards are met.
 3. **General Location Map.** A map or aerial photograph showing an area of 500 feet around the property. Zoning boundaries shall be located on this document.
 4. **Final Engineering Plans.** The final engineering plan(s) shall be submitted in accordance with the content and formatting guidelines provided by the Office of Engineering. If preliminary engineering plans satisfy the requirements of the Office of Engineering and no modifications to the preliminary engineering plans are required, then preliminary plans previously approved shall be considered final plans.
 5. **Final Landscape Plans.** The final landscape plan shall be submitted in accordance with the content and formatting guidelines provided by the Office of Planning and Zoning.
 6. **Transportation Impact Study and WVDOH Approvals.** A transportation impact study shall be re-submitted only if there was a condition for revisions in the concept plan approval. WVDOH approvals shall be secured prior to final approval.
 7. **Water and Sewer Services.** This shall include a declaration of Public Service District’s approval of plans, or approval by the appropriate service provider, and an agreement to operate the facility. This shall also include documents necessary for the transfer of ownership of the facility to the Public Service District or appropriate operating agency.
 8. **On-Site Sewer and Water.** If on-site waste disposal and water supply are provided, approval of the soils, design of the system and its location on the site shall be indicated.

9. **Special Engineering.** Special engineering studies are required if the site is in or partially in areas designated as high vulnerability areas. All natural resources which have specific resource protection standards in the Zoning Ordinance or these Regulations, shall be complied with, and require final engineering approval.
 10. **Historic Resource Preservation.** Submit a Phase I archaeological study in accordance with the West Virginia State Historic Preservation Office Guidelines for Phase I, II, and III Archaeological Investigations. A site file search, cultural resource investigation, literature review, and documentation of archaeological sites are required. Subsurface studies are not required under this section.
 11. **Open Space.** Open space to be provided to satisfy the requirements of the Zoning Ordinance shall be identified on the site plan. Covenants and deed restrictions applicable to such open space to assure its retention shall be submitted and approved for recordation.
 12. **Stormwater Management Plan.** A Stormwater Management Plan, as described in the Jefferson County Stormwater Management Ordinance, must be submitted as part of the major site plan to be reviewed by the Office of Engineering.⁴
 13. **Surety.** Cost estimates for all improvements and proof of surety. See Section 24.503, *Amount of Surety*
 14. **Other Agencies.** Required agency sign offs that the site plan is approved by that agency. These agencies shall include the Jefferson County Health Department, West Virginia Division of Highways, West Virginia Department of Environmental Protection, the West Virginia Health Department, the Public Service District, appropriate utility service providers, Jefferson County GIS/Addressing Office, and other review agencies certifying that the application is consistent with approved site plans and meets all requirements of the applicable codes, ordinances, or standards or others when determined appropriate by County staff.
 15. **Names.** Name of applicant and of consulting firms, addresses, phone numbers, e-mail addresses, and person(s) to whom correspondence shall be addressed.
 16. **Additional Information.** The Department shall:
 - a. Review and approve all matters under its jurisdiction.
 - b. Issue a zoning compliance letter.
 - c. Certify that all proffers have been satisfied.
- C. **Signature Blocks on Site Plans.** The following certificates shall be placed on all site plans:
1. **Surveyor/Engineer.** Certificate of accuracy and mapping by professional licensed surveyor/engineer signed and sealed.
 2. **Owners.** Certificate of ownership and dedication signed and notarized, including all individuals, partnerships, corporations, and lenders with financial security interests.
 3. **County Staff.** A signature block for the County Engineer and the County Planner approvals in accordance with Appendix A, *Plan & Plat Standards*.
- D. **Approval.** If the site plan is incomplete, or the development cannot conform to the Zoning Ordinance, be serviced by public services or on-site utilities, the Planning Commission shall deny the same; otherwise, the Planning Commission shall find it complete and accept it.
- E. **Effect.** Once the site plan is found complete, staff shall place the site plan on the next regularly scheduled Planning Commission agenda for a vote to accept or deny the application as complete. At the meeting where the application is found complete, the Planning Commission shall schedule a public hearing within 45 days and in accordance with Section 24.123. Upon determining the application is incomplete, the applicant shall be notified in writing stating the reasons for denial.

Division 26.200 Definitions of Terms

Phase I Archaeological Study. A study designed to identify and document historical and cultural resources within the entirety of the project area. The study is performed by a principal investigator who meets or exceeds the minimum requirements in accordance with the Secretary of Interior's Professional Qualifications, 36 CFR Part 61 and includes a pedestrian survey. *(Source West Virginia State Historic Preservation Office)*

If the Planning Commission chooses to move forward with this proposed text amendment, a Public Hearing will be required before both the Planning Commission and the County Commission.

Attachments

- Historical Resource Protection - Draft Text Amendment
- 2045 Comprehensive Plan Historical Preservation Excerpt
- West Virginia State Historic Preservation Office Guidelines for Phase I, II, III Archaeological Investigations and Technical Report Preparation(Appendices removed)
- Historic Landmarks Commission Comment Letter