

Meeting Minutes  
Jefferson County Planning Commission  
November 5, 2025

The Jefferson County Planning Commission met on November 5, 2025, at 6:00 pm with the following Planning Commission members present: Mike Shepp, President; Wade Louthan, Secretary; Cara Keys, County Commission Liaison; Tim Smith; Donnie Fisher; J Ware; and Daniel Hayes were present in person. Aaron Howell, Vice President; and Bruce Chrisman were both absent with notice.

Staff members present included Colin Uhry, County Planner; and Nathan Cochran, County Attorney.

Mr. Shepp called the meeting to order at 6:00 pm and confirmed a quorum was present.

**1. Consider issues from the mediation of Jefferson County Circuit Court Case # CC-19-2025-C-93 (RE: Sidewinder Enterprises, LLC v. Jefferson County Planning Commission).**

- a. Consider potential proffers that may be made by the developer as possible settlement offer for Jefferson County lawsuit. Consider acceptance of proffers and providing direction consistent with proffers if accepted.

Mr. Shepp introduced Agenda Item #1.

Mr. Shepp moved to bring the meeting into executive session at 6:01 p.m., Ms. Keys seconded the motion, which carried unanimously.

Mr. Hayes moved to bring the meeting out of executive session at 6:36 p.m., Mr. Louthan seconded the motion, which carried unanimously.

Ms. Susan Snowden, Attorney from Jackson Kelly, PLLC, was present in person to state the following proffers to the Planning Commission:

1. “The applicant makes the following proffers with respect to restrictions upon the withdrawal of groundwater:
  - A. The maximum withdrawal of groundwater will be limited to 1,000 gallons per minute and 1,440,000 gallons per day, consistent with the approved West Virginia Office of Environmental Health Services permit numbered 21258. Only a single well shall operate for groundwater withdrawal at a time, with the primary well for groundwater withdrawal being Well B, located on Tax Map 22, Parcel 34. Well C, located on Tax Map 22, Parcel 33.9, will act as the backup well for groundwater withdrawal if Well B is inoperable at any time. Well A, located on Tax Map 22, Parcel 33.0 will serve as only a monitoring well and will not be used for groundwater withdrawal.
  - C. Withdrawal of groundwater will be subject to the following limitations:
    1. In Zone A, the zone of strata beginning at the level of groundwater, measured at the Well A monitoring well on December 31<sup>st</sup> of the year prior to the commencement of groundwater withdrawal operations known at baseline level and extending downward to and including the stratum 10 feet below the baseline level, measured at the Well A monitoring well 10-foot level. In Zone B, the zone of strata beginning immediately below the 10-foot level extending downward to and including the stratum 15 feet below the baseline level, measured at the well lay monitoring well known as the 15-foot level. In Zone C, the zone of strata beginning immediately below the 15-foot level and extending downward.
    2. When the level of groundwater is above or within Zone A, Sidewinder may withdraw groundwater without limitation.
    3. When the level of groundwater is within Zone B, the applicant shall reduce its withdrawal of groundwater until either A) the groundwater level stabilizes in Zone B, in which case, the

withdrawal of groundwater at the reduced rate resulting in stabilization shall be continued or B) the groundwater level rises in Zone A, in which case the previous limitations apply.

4. When the level of groundwater is within Zone C, the applicant shall cease withdrawal of groundwater except for a maximum of 50,000 gallons per day to be provided exclusively to the PSC-regulated utility operating the raw water pipeline and water treatment plant for the use of its customers, until the groundwater level is within Zone B. At this time the previous limitations apply. The proffers contained a drawing summarizing the foregoing pumping limitations and was previously presented to the Planning Commission, and the drawing may be found at page 4649 of the certified record filed by the Planning Commission in the circuit court proceeding.
  - D. The foregoing restrictions shall be subject to order or requirement to the contrary of governmental agency or authority in the event of emergency, disaster, or other circumstances.
  - E. The applicant will conduct real-time monitoring of the water levels in the Well A monitoring well, and make the data available to the public via internet site. The applicant will also conduct real-time monitoring of flows in Turkey Run and make those data available in the same way.
  - F. The applicant understands Jefferson County intends to have the USGS conduct a water resources study and will contribute 50% of the cost of that study, up to a total contribution from the applicant of \$350,000. 50% of that contribution will be due within 60 days of the approved building permit for the construction of the beverage packing facility project, provided there is no administrative or judicial restriction on the use of the building permit. The remaining 50% will be due 30 days after commercial operations commence.
  - G. The applicant agrees not to file a claim against any farmer arising from or related to any water flow reduction or fluctuation in the water table causes by reasonable and ordinary agricultural activities adjacent to the water withdrawal location.
2. The applicant makes the following proffers with respect to the groundwater contamination plume underlying Parcel 9 on Tax Map 22:
  - A. During the construction of the beverage packing facility, the applicant will:
    1. In consultation and in coordination with WVDEP, develop an agreed plan for monitoring the groundwater underlying the parcel for the following contaminants: Trichlorethane, CS1, 2 Dichlorethine, and 1, 2, and 4 Trimethylbenzene, the contaminants, and the possible migration of the contaminants.
    2. Have been installed at the applicant's cost such as monitoring wells or other monitoring methods as specified in the Groundwater Monitoring Plan, collectively known as the Monitoring Wells.
  - B. Following commencement of operations of the applicant's beverage packaging facility, the applicant shall monitor by means of monitoring wells the groundwater underlying the parcel for the contaminants, specifically with respect to indicia of migration of the plume as a result of groundwater withdrawal from Well B. The West Virginia DEP and Jefferson County personnel or the staff of the Department of Engineering, Planning, and Zoning may participate in monitoring as each may elect, and will have access at reasonable times to the monitoring wells and data from monitoring performed by the applicant.
  - C. The applicant shall also identify and offer to sample up to 20 residential wells located within 0.25 miles of the beverage packing facility boundary for the same contaminants identified above as follows:

1. It shall conduct a round of baseline sampling before commencing construction of the beverage packaging facility.
  2. It shall continue sampling the wells quarterly for two years after commencement of construction and thereafter sample in accordance with the schedule agreed upon with the West Virginia DEP.
- D. In the event that such monitoring indicates within a reasonable degree of certainty as determined by the West Virginia DEP, that the plume is migrating due to the withdrawal of groundwater from Well B, the applicant will, in coordination with the West Virginia DEP and at the applicant's expense, undertake further on-site remediation of the contaminants or other actions as determined.
3. The applicant makes the following proffers with respect to groundwater wells of community residents:
    - A. To expand the groundwater level monitoring beyond monitoring Well A identified above, the applicant will conduct water level monitoring at a representative set of residential or agricultural groundwater wells and other water features as identified by a certified professional geologist, CPG, or a professional geologist, PC, licensed through a state program recognized by the Association of State Boards of Geology, ASBOG., selected by the applicant within a 3-mile radius of its withdrawal well on a tier basis using the following criteria:
      1. Tier 1 – Zero to one mile from the withdrawal well, select representative wells in all directions, especially along the strike and near known faults.
      2. Tier 2 – One to two miles, focusing on wells along and aligned with the strike and known faults or conduits.
      3. Tier 3 – Two to three miles, including wells in sensitive area (*e.g.: near springs, surface water bodies, or know contamination sites*). It is anticipated that the monitoring plan will consist of 20 to 40 wells, and 5 to 10 other water features (*ponds, springs, or streams*).
    - B. Upon written request of the owner of any parcel within a three mile radius of the withdrawal well, the applicant will pay the usual and ordinary costs of installation of a comparable replacement well, serving the parcel, and drilled to a depth adequate to provide groundwater if both:
      1. The yield of existing well upon the parcel has been reduced due to the withdrawal of groundwater from Well B
      2. The reduced yield is not reasonably sufficient for the existing residential or other use of the well
    - C. The applicant will create a fund of initially of \$1,000,000 to be used to discharge any obligation that occurs under 3B placing a well before it starts to withdraw water for commercial purposes. Starting 3 years after the start of commercial operations, the applicant may withdraw funds so long as it leaves an amount equivalent to 3 times the amount spent from the fund in the previous 3 years. That process may be repeated every 3 years.
  4. The applicant makes the following proffers with respect to improvements of state roads:

Prior to commencement of operations at the beverage packing facility, the applicant will coordinate with the West Virginia Department of Highways (WVDOH) to ensure the completion of improvements at the intersection of Leetown Road and West Virginia Route 51 as directed by the WVDOH. Said improvements are anticipated to include a traffic circle or roundabout, but the WVDOH will determine and be responsible for the specific improvements to be undertaken.
  5. The applicant makes the following proffers with respect to mitigation of traffic and related noise:
    - A. Following commencement of operations at the beverage packing facility, the applicant shall limit trips to or from beverage packing facility by trucks, as defined in West Virginia Code Section 11-14-A-2, which are proceeding to or from the facility for the purpose of loading or carrying package

beverages from the facility by means of Grace Street and Queen Street to maximum of 145 round trips per day, which represents a reduction from 160 planned round trips, provided that this restriction shall be subject to order or requirement to the contrary of governmental agency or authority in the event of emergency, disaster, or other circumstances. This provision shall not apply during construction of the beverage packing facility. The applicant will, Monday through Friday, restrict the number of trucks dispatched from its facility for the purposes of carrying packaged beverages, to 5 miles per hour, between the hours of 7:00 a.m. to 8:45 a.m. and 3:00 p.m. to 5:25 p.m. to minimize truck traffic during the hours of potential school bus operations. This restriction shall apply only so long as the trucking route is through Middleway by the means of Grace Street and Queen Street.

- C. Prior to the applicant's commencement of operations at the beverage packing facility, the applicant shall, in coordination and in cooperation with the WVDOH and Jefferson County, at their expense, have completed appropriate traffic controls, including:
1. To the extent directed and approved by the WVDOH to reduce speed limits on Grace Street, Queen Street, and Leetown Road within village limits as reflected by appropriate signage.
  2. To the extent directed and approved by the WVDOH, prohibition of use of compression braking within village limits as reflected by appropriate signage
  3. Such other traffic controls as proposed by the applicant and approved by the WVDOH.

The applicant makes the following proffer with respect to construction of the raw water pipeline:

The applicant will contractually require its contractors to, prior to commencement of excavation for and construction of the World Water Pipeline, and when consented to by the owner, conduct pre-construction surveys of structures that are both:

1. Within 100 feet of the proposed raw water pipeline
2. Contributing structures, i.e., those structures identified in the approved nomination form to the National Register of Historic Places for the Middleway Historic District, within the Middleway Historic District's collectively relevant structures. The applicant will contractually obligate its contractors to utilize means and methods that mitigate potential damage from vibration to relevant structures as determined by the subject contractor."

Should the proffers be accepted by the Planning Commission, the applicant would be authorized to submit the Site Plan for File #24-6-SP and the Planning Commission's motion to deny would be rescinded, finding the application to be in compliance with the Zoning and Land Development Ordinance.

The Planning Commission questioned Ms. Snowden for further clarification regarding the differences and uses of Wells A, B, and C, and the impact they will have once in operation. The Planning Commission also questioned the company operations after the appropriate proffers have completed their time-sensitive requirements. Ms. Snowden further elaborated on the requests from the Planning Commission.

Mr. Shepp noted that should the Planning Commission deny the proposed proffers and the case be escalated to the West Virginia Supreme Court, all proffers would be off the table and this is the only time the Planning Commission would be able to have control regarding development.

Ms. Keys moved to deny the proffers and the mediation and uphold the Planning Commission's decision made on March 12, 2025. Mr. Fisher seconded the motion, which carried five in favor (Hayes, Louthan, Keys, Ware, Fisher) and two opposed (Shepp, Smith).

Planning Commission Minutes

November 5, 2025

Page 5 of 5

Mr. Hayes motioned to adjourn the meeting at 7:24 pm. Mr. Louthan seconded the motion, which carried unanimously.

These minutes were prepared by Colin Uhry, County Planner.