

AGENDA
JEFFERSON COUNTY PLANNING COMMISSION
March 22, 2011

Planning Commission meetings are located in the Old Charles Town Library meeting room at 200 East Washington Street, at the side entrance on Samuel Street at 7:00 PM

1. Planning Commission direction given in response to the Concept Plan Review for Paynes Ford Station (PC File #10-12). This property is located at the intersection of Paynes Ford Road and Bowers Road. This project consists of a residential subdivision that includes 36 residential lots, a residue parcel, open space parcel, storm water management parcel, right-of-way dedications and internal roadways on 141.6 acres located in Tax District: Middleway; Tax Map: 6; Tax Parcel: 8.

Documents provided:

- *Paynes Ford Concept Plan Public Workshop Comments*
- *Staff report*
- *Agency Comments*
- *Reminder to include previously distributed Concept Plan*

2. Discussion and vote on Finding of Fact and Conclusions of Law for the denial of a requested time extension for Far Away Farms.

Documents provided:

- *Findings of Fact and Conclusions of Law regarding Far Away Farms decision*

3. Presentation of Draft Policy Neutral Zoning Ordinance Amendments in preparation for a public hearing on April 12, 2011.

Documents provided:

- *Reminder to include previously distributed Draft Zoning Ordinance Amendments*

The Planning Commission welcomes written comments at any time. Our office is open Monday through Friday, 9:00 a.m. to 5:00 p.m., and is located at 116 East Washington Street, P.O. Box 338, Charles Town, WV 25414. Our phone number is (304) 728-3228; our fax number is (304) 728-8126; our email address is planningdepartment@jeffersoncountywv.org and our website is www.jeffersoncountywv.org.

Minutes and video recordings of past meetings, Subdivision Regulations, Zoning Ordinance, and the Comprehensive Plan can be found on our website. The office has a file on each project as well as aerial photos of the county. Minutes and audio recordings of older meetings, not on the website are available for review in the office.

PAYNES FORD CONCEPT PLAN PUBLIC WORKSHOP COMMENTS

	Comment	Should be discussed by PC	Not in the purview of the PC	Already included in the Subdivision Regulations	Staff and Legal Response or Suggestion	Name of Citizen	Mr. Mark Dyck's Response at the PC Meeting
1	Is the Voluntary Remediation Program for the entire property or is it limited to the development in the North?	X			The CUP court order of 10-16-06 states that Mr. Ralston entered the Voluntary Remediation Program upon learning that the soil was contaminated. At that time, full build plan out would have covered the entire property. This should be discussed and clarified.	Scott Chapman	The Voluntary Remediation Program is for the area being developed.
2	Concerns of arsenic, DDT, and Lead levels that may be emitted or may enter the water (stream) when disruption of soil occurs		X		Per Legal advice to the PC, Agricultural uses can't be restricted by the Planning Commission even in the 100 foot buffer.	George Nichols	Mr. Dyck stated that there were some problem areas associated with mixing stations that had a higher level of remediation done and that there were no elevated levels of arsenic when tested at the property line of Chapel View and PFS and that water testing had a result of no elevated levels of arsenic. The DEP would be involved with regards to this topic. The lead/arsenic levels are tightly bound to the soil.
3	Will the Developer be working with Comcast to preinstall cable facilities as outlined in the Jefferson County Cable Franchise agreement?	X			Appendix B, Section 3.2 of Subdivision Regulations requires utilities (including cable) to be placed underground.	Jennifer Syron	Mr. Dyck assumed the Developer would discuss preinstallation with the cable company at the time of construction and that he personally had not contacted the cable company.
4	Will there be percussion drilling at the proposed site for each of the homes?		X		Mr. Dyck may be better able to answer this question.	Jennifer Syron	

PAYNES FORD CONCEPT PLAN PUBLIC WORKSHOP COMMENTS

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5	If Karst is discovered on a particular site will the potential home buyers be notified?	X				Jennifer Syron	The site is a combination of Karst and Limestone. Mr. Dyck stated that he knows of only one sinkhole and that it should have no impact on homes elsewhere on the site.
6	If Karst is found, what efforts will be made by the developer or the builder during construction to minimize potential damage to the houses?	X				Jennifer Syron	
7	What efforts will the County Engineering Department take to make sure the proper standards and procedures are being followed?			X	Engineering will follow the requirements outlined in the Subdivision Regulations such as Reviewing for Standards, Bonding, and Inspections	Jennifer Syron	
8	Will the School Boards be notified of the developments school age demographic in order to incorporate that figure into their 5 year Comprehensive Plan?		X		This should be discussed between the developer and the Board of Education	Jennifer Syron	
9	Suggestion for Paynes Ford Station to work with Jefferson and Berkeley Counties to ensure safe bus stops that are significantly distant from each other.		X		This should be discussed with the Jefferson County and Berkeley County Schools' Transportation Departments.	Jennifer Syron	

PAYNES FORD CONCEPT PLAN PUBLIC WORKSHOP COMMENTS

	Comment	Should be discussed by PC	Not in the purview of the PC	Already included in the Subdivision Regulations	Staff and Legal Response or Suggestion	Name of Citizen	Mr. Mark Dyck's Response at the PC Meeting
10	Suggestion that, if bus shelters are to be built, easements for bus shelters should be provided that are relatively flat, do not fall in drainage easements and do not require students to wade through them to get to the shelter. These shelters and easements should cover enough territory to provide a safe area for the children while protecting homeowners' yards and privacy		X		There are no requirements in the Subdivision Regulations to provide bus shelters.	Jennifer Syron	Mr. Dyck commented that the bus shelters were a good idea and felt that it was something that should be included in the Subdivision Regulations so that all developments were held to the same standards.
11	Suggestion that the Developer work with the Jefferson County Board of Education's bus department to ensure that the roads meet the design requirements for buses to travel within the community.		X		This should be discussed with the Jefferson County and Berkeley County Schools' Transportation Departments.	Jennifer Syron	
12	Will there be separate entrances/exits to the development in each county?	X				Jennifer Syron	There is a Jefferson County entry and a Berkeley County entry.
13	Will Duffy's Cavern pose a safety hazard to children in the community and what steps will be taken to reduce that risk?		X			Jennifer Syron	The Cavern is located on the Berkeley County side of the development. There are large sinkholes that were specifically dealt with during the Berkeley County process. There is a safety hazard with placing a fence as children tend to get into the fenced area but are unable to get out.

PAYNES FORD CONCEPT PLAN PUBLIC WORKSHOP COMMENTS

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14	Suggestion to have the Developer work with the Planning Commissions and Emergency Responders from both Jefferson and Berkeley County to resolve delayed response times for future and current residents.		X		This should be discussed with the Jefferson and Berkeley County Emergency Responder agencies (Sheriffs Dept., EMS, Fire)	Jennifer Syron	
15	Suggestion that, although the stormwater management was resolved with Berkeley County in 2008, the Developer review new stormwater management regulations and conform to those standards.			X	Applicant will have to design to current standards. There are no adopted standards with the model stormwater ordinance yet for which the developer would need to adhere to or for which Engineering could review.	Jennifer Syron	Since the new stormwater regulations are a model ordinance and not yet adopted, the stormwater management cannot be designed to those specifications.
16	Request for Chapel View to receive a copy of the HOA Covenants.		X		Highland Farms received a copy of the covenants as a condition of the CUP. Would Mr. Dyck extend this to Chapel View?	Jennifer Syron	
17	Will there be one or two HOAs? One for the entire development or one for each county?		X			Jennifer Syron	Mr. Dyck stated that the HOA is usually a contract between the developer and the home buyers and that the County usually only keeps the covenants on record and does not enforce the document.
18	Will the density differences between the two counties be reflected in the HOA assessments?		X			Jennifer Syron	see #17
19	If it is one HOA, how will covenants be worded to ensure that there is but one set of governing documents?		X			Jennifer Syron	see #17

PAYNES FORD CONCEPT PLAN PUBLIC WORKSHOP COMMENTS

	Comment	Should be discussed by PC	Not in the purview of the PC	Already included in the Subdivision Regulations	Staff and Legal Response or Suggestion	Name of Citizen	Mr. Mark Dyck's Response at the PC Meeting
20	Which county's Subdivision Regulations will be followed regarding things such as speedbumps, atv ordinances, or turnover to homeowner control?			X	These regulations should be based on jurisdictional control.	Jennifer Syron	
21	Will documentation be provided to the tax assessors' offices at the appropriate time so that the HOA is not responsible for paying taxes on common areas and does not have to clarify this with the tax assessors at a later date?		X			Jennifer Syron	
22	Will a copy of the bylaws be given to the homeowners and will the bylaws be filed in the County Clerk offices?		X			Jennifer Syron	
23	Will the Developer clearly delineate the process in which the HOA will be turned over to the homeowners, not just the date or termination of Class B membership and therefore voting controll of the HOA, but the acual steps and milestones (including beard appointments and committee formation) of the transition?		X			Jennifer Syron	
24	Will this development be a limited expense community?		X			Jennifer Syron	
25	What will be the basis for determining the annual assessments/dues?		X				

PAYNES FORD CONCEPT PLAN PUBLIC WORKSHOP COMMENTS

	Comment	Should be discussed by PC	Not in the purview of the PC	Already included in the Subdivision Regulations	Staff and Legal Response or Suggestion	Name of Citizen	Mr. Mark Dyck's Response at the PC Meeting
26	Will there be a third party, such as a reserves company or licensed management company, to review the proposed budget, the annual HOA assessment per home, and future estimated cost for the HOA to meet its responsibilities? If so, what will be done if the third party professional disagrees with the figure that has been proposed?		X			Jennifer Syron	
27	If the community is intended to be a limited expense community, will it be such in perpetuity or will there be a provision that grants homeowners the right to amend this aspect?		X			Jennifer Syron	
28	Will potential homebuyers be provided a purchase and/or resale disclosure packet regarding the HOA's finances?		X			Jennifer Syron	
29	Will Paynes Ford Station be paying Orchard Knolls for the opportunity for the right to hook up to sewer and water lines in Chapel View? If so, how much and when?		X		This should be answered by Mr. Dyck or by Berkeley County PSD. Berkeley County has responsibility to declare hook-up rights.	Barbara Fuller	

PAYNES FORD CONCEPT PLAN PUBLIC WORKSHOP COMMENTS

	Comment	Should be discussed by PC	Not in the purview of the PC	Already included in the Subdivision Regulations	Staff and Legal Response or Suggestion	Name of Citizen	Mr. Mark Dyck's Response at the PC Meeting
30	Commented that there is a crowding of homes on one side of the property. Will the residue be purified of chemicals and then an appeal be filed to build more homes on that residue?	X			Will the Voluntary Remediation be put in place for the entire site? Per the CUP only one additional home can be built on the residue for a total of 37 homes.	Barbara Fuller	
31	Concerns that the elevation of Paynes Ford Station is higher than the adjoining properties of Chapel View. Will stormwater issues be addressed so that Chapel View Properties will not be flooded?			X	Engineering will review the stormwater management upon submission of the preliminary plat.	Barbara Fuller	The stormwater management has been designed so that all the ditches and driveways flow to the stormwater management pond. The site will be graded for flow. No more rate of water can flow off the site after development than before development. There will be a liner on the pond so there will be no infiltration.
32	Concerns that the conditions placed on this property in 2008 regarding the density of the property has not changed although the number of lots has changed. Neighbors were under the impression that the lot sizes would also be increased to greater than 3 acres so that houses would not be bunched in one area. Since that is not the case, will the residue be developed in the future to include more houses?	X			Staff recommends requiring a plat note stating that the residue cannot be further subdivided, although a single-family home may be built on the residue. Staff also recommends requiring a deed restriction be placed on every deed in the subdivision limiting every lot (including the residue) from further subdivision, because the creation of additional lots would violate the CUP.	Mark Eddy	Although there are currently no more development rights, if the county decides to rezone or if changes in the Ordinance allow for additional rights, the property would hold the same right to develop as any other property in the county. The impact to the land, stormwater management, roadways, ect. would be significant if the houses were spread over the remainder of land.

PAYNES FORD CONCEPT PLAN PUBLIC WORKSHOP COMMENTS

	Comment	Should be discussed by PC	Not in the purview of the PC	Already included in the Subdivision Regulations	Staff and Legal Response or Suggestion	Name of Citizen	Mr. Mark Dyck's Response at the PC Meeting
33	Comment that neighbors should be notified of the public workshop by mailed letters and that current notice requirements are insufficient.				Staff will be proposing an amendment to the Subdivision Regulations at the April 12, 2011 PC meeting to rectify this issue. This is being done to allow public notice on the front end. It will allow a developer and the public ample time to sort out and eliminate any differences early in the process and resolve public concern at the Concept Plan Stage. This will provide the applicant a level of assurance that no further significant change requests will need to be addressed once the Concept Plan Workshop is complete.	Mark Eddy	
34	Where will the stormwater management water go? Will it flow under the road? Will the Opequon Creek be affected? If so, is it silted water?			X	Sediment and Erosion Control will be reviewed by the DEP and by Jefferson County	Mark Eddy	See #32
35	Sidewalks			X	Sidewalks are required in the Rural District when residential density exceeds 3 units per acre. Staff finds this requirement to not be applicable to this development.	Staff	

STAFF REPORT

Jefferson County Planning Commission Meeting

March 8, 2011

Item #4 Request by Paynes Ford Station for a Major Subdivision Concept Plan Public Workshop for a proposed subdivision (PC File #S10-12). (Subdivision Regulation 24.108)

APPLICANT:	Paynes Ford Station
OWNER :	David Ralson and Ronald Slonaker
DEVELOPER:	n/a
SURVEYOR/ENGINEER:	William H. Gordon Associates, Inc.
PROPERTY LOCATION:	Intersection of Paynes Ford Road and Bowers Road
LEGAL DESCRIPTION:	District: Middleway; Map: 6; Parcel: 8
ZONING DISTRICT:	Zoning Map Designation: Rural
SURROUNDING PROPERTIES:	Zoning Map Designation: North: R South: R East: R West: R
LOT AREA:	141.55 acres
PROPOSED ACTIVITY:	Residential Subdivision consisting of 36 lots and a residue parcel

The submitted Concept Plan, by Paynes Ford Station, is for a major subdivision requiring a Major Concept Plan Public Workshop. The site is located at the intersection of Paynes Ford Road and Bowers Road with a small portion of the parcel protruding into Berkeley County. The area within Berkeley County has been approved for 17 lots. The proposed subdivision in Jefferson County is for 36 lots and a residue parcel consisting of 110.81 acres.

Prior to scheduling this proposal on the Planning Commission agenda for a public workshop, two requirements of the 2008 Amended Subdivision Regulations were required to be met by the applicant.

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On November 30, 2010, the applicant submitted an application referred to in the Subdivision Regulations as a “Major Subdivision Concept Plan Submission.” Staff had 10 days to review the content of the submission. This review was only to ensure that the appropriate items were submitted, not to review the quality of the submission documents. Listed below are the required items at this stage of the process. Please note, the applicant has provided the required information and meets the submittal requirements. The application was deemed “sufficient.”

1. **General location.** A map or aerial photograph showing an area of 500 feet around the property. Zoning boundaries shall be located on this document.
2. **Concept Plan.** A Concept Plan shall be submitted in accordance with the content and formatting guidelines provided in Appendix A, *Plan & Plat Standards*.
3. **Zoning Information.** This shall include:
 - a. Determination of the zoning district in which the proposed subdivision or development project is situated.
 - b. Density calculations.
 - c. Site resource map.
4. **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, and development option selected if the development is residential.
5. **Traffic Impact Data.** This shall include:
 - a. Average Daily Trip figures for the adjoining or accessible State road.
 - b. Trip generation figures based on the following table:

<u>USE</u>	<u>PEAK HOUR</u>	<u>AVERAGE DAILY</u>
<u>Single family</u>	<u>0.8</u>	<u>8.0 per d.u.</u>
<u>Detached</u>	<u>0.7</u>	<u>6.0 per d.u.</u>
<u>Townhouse</u>	<u>0.6</u>	<u>7.0 per d.u.</u>
<u>Mobile Home</u>	<u>0.6</u>	<u>5.0 per d.u.</u>

- c. Nearest key intersection that will serve the proposed project. A “key intersection” is defined as any intersection with a primary or secondary highway as classified by the current Comprehensive Plan.
 - d. “Highway Problem Areas” according to the current Comprehensive Plan that falls within a one-mile radius of the project.
 - e. In the event trip generation in the peak hour exceeds 100 or the limitation designated in the most current DOH Traffic Engineering Directive, a traffic study will be required which includes generators, etc. This type of study should be performed by a traffic engineering consultant. The effect of phasing the subdivision shall be cumulative.
6. **Other Data.** Any other data or information the applicant believes will assist in the review.

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7. **Other Reviews.** Any other staff or agency reviews of the plans.

After determining the submission was sufficient within the allotted 10 days, the application was formally received on December 16, 2010. A letter was sent to the applicant notifying them that they could advance to the next step in the process, a Major Subdivision Concept Plan Completeness Review. Within a 45 day period, that began on December 16, 2010, the concept plan was required to be scheduled for a public workshop at a regularly scheduled Planning Commission Meeting. Staff scheduled the applicant's public workshop for the February 22, 2011 Planning Commission Meeting. During the time period between formal receipt of the application and the public workshop, the Major Subdivision Concept Plan Completeness Review process takes place. Listed below are the requirements in the Major Subdivision Concept Plan Completeness Review process:

- A. **Department and Agency Reviews.** The Department and appropriate reviewing agencies shall conduct reviews of the proposed concept plan. Agency comments shall be received by the Department 14 days prior to the scheduled public workshop.
- B. **Review Content.** The Department and agency reviews shall address the areas indicated in C through F below and any other areas of concern to the agencies.
- C. **Department.** 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 concept plan submission. (Landscaping, for instance, is not generally available at this stage). Staff shall identify conditions that would enable the plan to meet the standards. It shall also identify any other zoning issues the developer shall address in a preliminary plat submittal.
 - 2. Staff opinion as to whether the plan meets the site development planning or subdivision criteria of these Regulations. The Department shall review the concept plan for modifications that would improve the plan.
- D. **WVDOH.** When appropriate, the WVDOH shall submit a letter to the Department of Planning indicating issues and data requirements or notice that there are no issues or data requirements. If WVDOH determines that a traffic study needs to include more area than required by these Regulations or the Zoning Ordinance, it shall specify the expanded area. Any issues regarding sight distances, access location, road configuration, or off-site improvements shall be noted with recommendations or required changes. The purpose is to ensure that, at preliminary plan review, all transportation information is available so the agency does not have to seek additional data for a qualitative review.
- E. **Traffic Impact.** The review shall indicate whether the traffic impact study follows the generally accepted methodology for a traffic impact study, outlines the traffic impact, and recommends alternatives for mitigating the impact.
- F. **Public Services.** The review shall indicate whether there are existing water and sewer systems in place that can handle the development. If not, the review shall indicate the type or extent of a

STAFF REPORT

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system that shall be proposed by the developer to best meet the County's needs in that area of the County.

- G. **Recommended Conditions.** All reviews shall contain recommended conditions for moving forward to a preliminary plat or reasons why the plan should be denied.
- H. **Approval.** Unless there are reviews indicating that the development cannot conform to the Zoning Ordinance, be serviced by public services, or provide its own utilities, or other factors that make the development impossible, Planning staff shall accept or deny the concept plan as complete.
- I. **Effect.** Upon accepting the application as complete, Planning staff shall place it on the next possible Planning Commission agenda as a public workshop. Staff shall advertise the public workshop at least fourteen (14) days in advance of the meeting and the applicant shall post notice on the property.

The Planning and Zoning Department Staff find the Paynes Ford Station concept plan complete based on the information provided related to the criteria above and the conditions outlined in the Conditional Use Permit (CUP) that was granted on September 15, 2010. The applicant has listed all of the CUP conditions on the concept plan and has either addressed the conditions within the submitted concept plan or listed when those conditions will be met in future submittals.

As part of the CUP approval, a 100 foot buffer along Highland Meadows was required and has been shown. The applicant has requested that that 100 foot buffer not restrict the use of agricultural uses in that buffer. Staff believes that the 100 foot buffer is to separate residential uses and not to limit agricultural uses.

Additionally, outside agencies have responded. Of the agencies specifically asked to respond, WVDOH, Berkeley County Public Service Sewer District, Berkeley County Public Service Water District and Jefferson County Historic Landmarks Commission all responded. The Jefferson County Health Department has not responded.

The Jefferson County Public Service District has released this project to the Berkeley County Public Service Sewer District and Berkeley County Public Service Water District for service of this site. The Berkeley County Public Service Sewer District and the Berkeley County Public Service Water District has agreed to supply this site due to their proximity to the property.

The West Virginia Department of Highways has approved an entrance permit for the proposed project at this location, under the condition that a \$25,000 performance bond is posted. No indication of a traffic study report or additional traffic improvements were mentioned.

The Jefferson County Historic Landmarks Commission responded stating they do not believe the project will have any adverse affect on any historic resources in Jefferson County.

With these early, but significant items addressed, the concept plan proceeds to the scheduled public workshop.

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The Major Subdivision Concept Plan Public Workshop allows for the Planning Commission and the general public to comment on the proposed plan. The Subdivision Regulations outline how to proceed. First, the applicant makes a short presentation. Second, Staff explains outside agency comments and whether the plan has met the standards of the Zoning Ordinance. Third, public comment is solicited.

After the applicant's presentation, staff's explanation and the solicitation of public comment, the Planning Commission shall provide direction to the applicant as required under Major Subdivision Concept Plan Direction outlined in the Subdivision Regulations. This direction shall be provided within 14 days, either at the Planning Commission Meeting after the Major Subdivision Plan Public Workshop is closed, the next Planning Commission meeting or at a special Planning Commission meeting.

The Planning Commission shall direct the applicant to prepare a preliminary plat. The applicant shall take into consideration the input from the Departments of Planning and Zoning, all outside agencies, public comment and Planning Commission remarks when forming their preliminary plat. The purpose of this review is to guide the developer so that when the preliminary plat applicant is formally received by the staff, there should not be a whole range of issues being raised for the first time. At time of submission of the Major Subdivision Preliminary Plat Application the applicant shall cite conditions and demonstrate if they have been met or otherwise addressed as outlined under Major Subdivision Concept Plan Direction in the Subdivision Regulations.

It should be noted, that the direction provided to the applicant in the Concept Plan Public Workshop shall be applicable for a period of two years, with the provision that any amendments to the Subdivision Regulations or the Zoning Ordinance in the second year shall be applicable.



RECEIVED
JAN 25 2011
PLANNING
JEFFERSON COUNTY
PLANNING AND ENGINEERING

Mr. Steve Barney
Zoning Administrator
Jefferson County Planning and Zoning
P.O. Box 338
Charles Town, WV 25414

January 23, 2011

Mr. Barney,

The Jefferson County Historic Landmarks Commission has reviewed the concept plan submitted by William H. Gordon Associates for the proposed residential subdivision called Paynes Ford Station. After review of the submitted materials, it is the view of the landmarks commission that the proposed development would have no adverse affect to the historic resources on the subject property or those on adjacent parcels.

Thank you for the opportunity to review the project.

Sincerely,

A handwritten signature in black ink, appearing to read 'John C. Allen, Jr.', with a stylized flourish at the end.

John C. Allen, Jr.
Chairman, JCHLC

Cc: Chad Wallen, William H. Gordon Associates

Jefferson County Public Service District

January 3, 2011

Curtis Keller
General Manager
Berkeley County Public Service Sewer District
65 District Way
P.O. Box 944
Martinsburg, WV 25404

Re: Water and Sewer Service for Paynes Ford Station

Hello Curtis:

I am forwarding to you a request for information from Jefferson County Departments of Planning and Zoning (County) for water and sewer service availability for Paynes Ford Station. Consistent with the June 3, 2003 Service Territory Agreement between Jefferson County Public Service District (JCPSD) and Berkeley County Public Service Sewer District (BCPSSD), as it is currently not feasible for JCPSD to provide sewer service to Paynes Ford Station, the decision about sewer service availability for Paynes Ford Station, as well as for Quail Ridge II, the Berkeley/Jefferson Industrial Park and Chapel View, currently remains that of BCPSSD. Any service requests outside of these developments but within Jefferson County will be addressed directly by JCPSD unless the Board of JCPSD agrees to a variance of our service area.

I will also forward the County's request to Berkeley County Public Service Water District for a decision for water service availability for Paynes Ford Crossing as JCPSD currently does not have the ability to provide water service to this area and they currently serve the first section of this development.

Thanks very much for your help. Should additional information be necessary, please feel free to contact me. I hope the New Year brings health, wealth, and happiness to all of the people at BCPSSD.

Sincerely,



Susanne Lawton
General Manager

cc: D. Chad Wallen, Project Manager, William H. Gordon Associates Inc.
Zane Summerfield, Engineer, Pentree Inc.
James V. Kelsh, Esquire

enc: copy of letter from Jefferson County Department of Planning and Zoning
copy of letter from William H. Gordon Associates Inc with maps

Jefferson County Public Service District

January 3, 2011

Chris Thiel
Director of Engineering
Berkeley County Public Service Water District
P.O. Box 737
Martinsburg, WV 25402

Re: Water and Sewer Service for Paynes Ford Station, Section 2

Hello Chris:

I am forwarding to you a request for information from Jefferson County Departments of Planning and Zoning (County) for water and sewer service availability for Paynes Ford Station, Section 2. It is my understanding that Berkeley County Public Service Water District (BCPSWD) currently provides water service for Paynes Ford Station. We would appreciate your consideration to provide water service for this new section of this development.

Thanks very much for your help. Should additional information be necessary, please feel free to contact me. I hope the New Year brings health, wealth, and happiness to all of the people at BCPSWD.

Sincerely,



Susanne Lawton
General Manager

cc: D. Chad Wallen, Project Manager, William H. Gordon Associates Inc.
Zane Summerfield, Engineer, Pentree Inc.
James V. Kelsh, Esquire

enc: copy of letter from Jefferson County Department of Planning and Zoning
copy of letter from William H. Gordon Associates Inc with maps

Jefferson County Public Service District

January 3, 2011

Steve Barney
Zoning Administrator
Jefferson County Departments of Planning and Zoning
116 East Washington Street
P.O. Box 338
Charles Town, WV 25414

Re: Water and Sewer Service for Paynes Ford Station (PC File # 10-12)

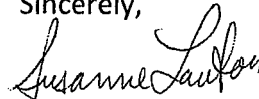
Dear Mr. Barney:

Due to a June 3, 2003 Service Territory Agreement between Jefferson County Public Service District (JCPSD) and Berkeley County Public Service Sewer District (BCPSSD), the sewer service availability for this development will be a decision by BCPSSD. By a copy of this letter and your request for information on the development, BCPSSD has been informed of the request. We have also informed Berkeley County Public Service Water District so they have the opportunity to comment on the availability of water as they currently provide water service for the existing phase of Paynes Ford Station and JCPSD does not have water service available in the area.

JCPSD is grateful to County Staff for including us in your "Completeness Review" process. When each request is received, we will answer with the best information we have, which may, as in this case, include a suggestion for other service providers. Please continue to send the requests to us and we will assure the proper water and sewer service utilities are notified.

Should additional information be necessary, please feel free to contact me.

Sincerely,



Susanne Lawton
General Manager

cc: Zane Summerfield, Engineer, Pentree Inc.
James V. Kelsh, Esquire
D. Chad Wallen, CLA, William H. Gordon Associates Inc.



William H. Gordon Associates, Inc.

301 North Mildred Street, Suite 1

Charles Town, WV 25414

304-725-8456 Phone

304-728-0117 Fax

December 28, 2010

Jefferson County Public Service District
340 Edmond Road
Suite A
Kearneysville, WV 25430

To Whom It May Concern,

Per the request of the Jefferson County Departments of Planning & Zoning, enclosed you will find a copy of the Concept Plan for Paynes Ford Station Section 2, for your review and comment.

Paynes Ford Station (Section 2) is a proposed residential subdivision on 141.5+/- acres in Jefferson County, West Virginia. As proposed, Paynes Ford Station Section 2 is comprised of 37 single family lots, 1 residue parcel and common areas for open space, storm water management & internal roadways. Access to this subdivision will be provided from WV Route 3 (Mount Zion Road/Paynes Ford Road) and through the existing Section 1 of Paynes Ford Station in Berkeley County, West Virginia.

Please contact me at the addressed listed above or at (304)725-8456 with any questions, comments or for additional information. Thank you in advance for your time and consideration in reviewing the Concept Plan for Paynes Ford Station Section 2.

Sincerely,

D. Chad Wallen, C.L.A.
Project Manager

JEFFERSON COUNTY, WEST VIRGINIA

Departments of Planning & Zoning

116 East Washington Street
P.O. Box 338
Charles Town, West Virginia 25414

Email: planningdepartment@jeffersoncountywv.org

Phone: (304) 728-3228
Fax: (304) 728-8126

December 16, 2010

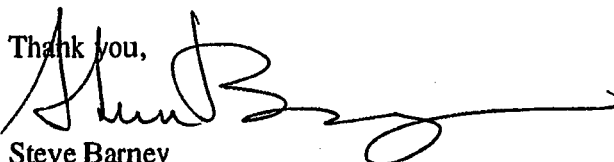
Jefferson Orchards Inc.
c/o David Ralston and Ronald Slonaker
P.O. Box 700
Kearneysville, WV 25430

Dear Mr. Ralston and Mr. Slonaker:

This letter will confirm that the Concept Plan that was submitted for Paynes Ford Station (PC File #10-12) project has been declared sufficient for review. There are no fees required. Below is a timeline for the next steps in the process:

- ❖ The Completeness Review will begin on December 16, 2010.
- ❖ The Concept Plan material and a copy of this letter detailing the timeline will need to be submitted to the reviewing agencies by December 28, 2010. Those agencies include:
 - West Virginia Department of Transportation, Division of Highways
 - West Virginia Department of Environmental Protection
 - Jefferson County GIS/Addressing Office
 - Jefferson County Health Department
 - Jefferson County Public Service District
 - Jefferson County Historic Landmarks Commission
- ❖ Reviewing agency comments will need to be submitted to the Planning and Zoning Department no later than February 1, 2011. If the Planning and Zoning Department receives no reply from the reviewing agency, the department will assume approval.
- ❖ The Department will place an advertisement for the public workshop in the February 2, 2011 edition of the Spirit of Jefferson Advocate.
- ❖ A public notice sign (supplied by the Department) detailing the time and date of the public workshop will need to be posted on the property by the applicant no later than February 8, 2011.
- ❖ The public workshop will be held at a Planning Commission meeting on February 22, 2011.

If you have any questions please feel free to contact our office.

Thank you,

Steve Barney
Zoning Administrator

SR/jth

cc: William H. Gordon Associates



WEST VIRGINIA DEPARTMENT OF TRANSPORTATION

Division of Highways

Office of the District Engineer/Manager
District Five

P. O. Box 99 • Burlington, West Virginia 26710-0099 • (304) 289-3521

January 12, 2011

RECEIVED
JAN 18 2011
JEFFERSON COUNTY
PLANNING, ZONING AND ENGINEERING

William H Gordon Associates, Inc
D Chad Wallen
North Mildred Street, Suite 1
Charles Town WV 25414

Dear Mr. Wallen:

Request for Permit
Paynes Ford Station 2

Your request for a permit for Paynes Ford Station Section 2 was received in my office on 1/3/11. My records indicate that Paynes Ford Station Section 1 has not been completed and the permit has expired as of 10/31/09. If your records show differently please forward proper documentation. Before an extension will be given to Section 1, revised drawings will need to be supplied. The revisions will need a typical showing Filter Fabric, 12" class 1 stone 4" HMA base course and 2" of wearing. A \$25,000 surety bond will also be required. Please respond to this office in writing with your desires for Section 1. We will not issue a permit for Section 2 until Section 1 is properly addressed.

Once Section 1 is properly addressed, the checklist provided will need to be addressed for Section 2. After reviewing Permit 5-08-0822 for Section 1, there is a statement in the attachment about a turning lane if further sections are added. Our Traffic Engineering Technician will be looking into whether the turning lane will be required with the addition of Section 2.

If you have any further questions please feel free to contact me at 304-289-2284 or at e-mail larry.a.alt@wv.gov

Sincerely,

Larry Alt
Permit Reviewer

LAA

cc: Permit File / Jefferson County Planning (Steve Barney)
Larry Alt/Rick Shobe/

WVDOH District Five Major Highway Entrance Permit Checklist (Subdivision, Commercial, Industrial)

All submittals for a highway entrance permit shall be made in accordance with the May 2004 WVDOH Manual on Rules and Regulations for Constructing Driveways on State Highway Rights-Of-Way. The submittal/review procedure for a Major Highway Entrance Permit will generally be as follows:

1. **Concept Submittal** — To be used in conjunction with a meeting between WVDOH and Consultant to determine the need for a Traffic Impact Study and/or improvements to state highway.
2. **Traffic Impact Study** - If required per section 15.1 of the May 2004 WVDOH Manual on Rules and Regulations for Constructing Driveways on State Highway Rights-Of-Way. The final determination for the need for a traffic impact study will be made by District Five Traffic Engineer at the concept submittal meeting.
3. **Preliminary Plan** ——— To be submitted for review by WVDOH upon resolution of comments from traffic impact study submission.
4. **Storm Water Management Report** ————— To be submitted for review by WVDOH with preliminary plans if any part of the project site drains to a state highway. Also need to look at potential impacts to downstream drainage structures that are part of state highway system.
5. **Final Plan** ————— To be submitted for approval upon resolution of comments from preliminary plan and storm water management submissions.

CONCEPT SUBMITTAL (2 COPIES)

INCLUDED	DESCRIPTION
	1. Overall plan view, with contours, of propose subdivision/commercial/industrial property showing proposed entrances and internal road system.
	2. Show <u>all</u> phases of development for the entire property, including any areas of future expansion.
	3. Show any proposed improvements (widening, turning lanes, vertical grade improvements, etc.) to State highway, if known at time of submittal.
	4. Show all existing entrances (both sides of highway) with distances from proposed entrances.

TRAFFIC IMPACT STUDY (5 COPIES + CD)

to be determined

INCLUDED	DESCRIPTION
	1. Prepare in accordance with Traffic Engineering Directive 106-1 and the May 2004 WVDOH Manual on Rules and Regulations for Constructing Driveways on State Highway Rights-Of-Way.
	2. Submit five (5) securely bound hard copies and one (1) digital copy on CD of preliminary Traffic Impact Study (TIS) including all analyses for review.
	3. Upon resolution of comments from preliminary TIS, Submit five (5) securely bound hard copies and one (1) digital copy on CD of final Traffic Impact Study including all analyses.

Paynes Ford Station

WVDOH District Five Major Highway Entrance Permit Checklist (Subdivision, Commercial, Industrial)

PRELIMINARY PLAN SUBMITTAL (2 COPIES)

INCLUDED	DESCRIPTION
	At preliminary plan submittal, stake location of proposed entrances. If any improvements are being made to the State highway, paint centerline stationing on highway.
	Include the following items in the submittal.
	1. Provide copy of Deed and/or Plat for property.
✓	2. Include an overall plan view, with contours, of proposed subdivision/commercial/industrial property showing proposed entrances and internal road system.
✓	3. Show <u>all</u> phases of development for the entire property, including any areas of future expansion.
✓	4. Show location on portion of WVDOH county map. Scale: 1" = 1 mile
✓	5. Show proposed storm water management structures.
✓	6. Show and label all existing property lines.
✓	7. Label and show dimensions of State highway right-of-way.
✓	8. Show and dimension existing travel lanes, turning lanes, shoulders, curbs, etc.
	9. Show stationing of State highway in accordance with established mileposts.
✓	10. Show posted speed limit of all State highways.
✓	11. Show distance from proposed entrances to nearest highway intersection.
✓	12. Show all existing entrances (both sides of highway) with distances from proposed entrances.
	13. Show existing signs and traffic control devices.
	14. Show and label existing utilities within the project area.
	15. Show existing and proposed guardrail.
✓	16. Show plan view of all proposed entrances, show and dimension all radii.
✓	17. Show profile of proposed entrances, starting from centerline of State highway.
✓	18. Include typical sections for proposed entrances.
✓	19. Show any proposed improvements (widening, turning lanes, vertical grade improvements, etc.) to State highway. Provide 2' min wide paved shoulders.
✓	20. Proposed improvements to be designed in accordance with listed references. Geometric design to be in accordance with WVDOH Design Directives DD 601, DD 603, & DD610.
✓	21. Include plan and profile of proposed improvements to State highway. <i>4.25'</i>
✓	22. Show sight distances to the left and right, and left turn in, 3.5' eye height and 3.5' object height.
	23. If widening or otherwise improving State highway, provide cross-sections of State highway at 50' max intervals, and at existing and proposed entrances.
✓	24. Plan sheets shall be at 1"=20' scale. Profile sheets shall be 1"=20' scale horizontal, and 1"=5' scale vertical. Cross sections shall be 1"=10' scale horizontal and vertical. <i>All Sheets</i>
	25. Include typical sections for proposed improvements to State highway.
✓	26. Use WVDOH asphalt pavement mixes and appropriate nomenclature.
✓	27. Subgrade, aggregate base, & asphalt base and wearing course types and thicknesses to be provided by WVDOH. <i>12" Stone (1 1/2") 4" Base 2" wearing</i>
✓	28. Fabric for separation to be used under aggregate base course.
✓	29. Show existing and proposed highway drainage structures (with elevations).
✓	30. Show direction of flow of all streams, channels, ditches and swales.
✓	31. Include analysis & design of all drainage structures in accordance with WVDOH Drainage Manual.
✓	32. Include traffic control plans for all phases of work.
✓	33. Include proposed pavement marking and signage plans as per WVDOH Standard Details Book Volume 2,
✓	34. Show and label limits of proposed right-of-way conveyances to the WVDOH.
	35. For clarity of the plans, do not show spot elevations, proposed water/sewer lines, landscaping, erosion/sediment control details, etc.

09/22/06

mark All Entrances in field with Blue & Gold Ribbon 3/4

WVDOH District Five Major Highway Entrance Permit Checklist (Subdivision, Commercial, Industrial)

STORM WATER MANAGEMENT REPORT (1 COPY)

INCLUDED	DESCRIPTION
✓	1. Required if any part of the project site drains to a state highway.
✓	2. WVDOH policy is <u>no</u> increase in peak discharge to any state highway.
	3. Need to also look at potential impacts to downstream drainage structures that are part of state highway system.
✓	4. The minimum design storm for determining the peak discharge is the 25-year storm.
	5. Interstate and Trunkline routes require the use of the 50-year storm for determining the peak discharge.
	6. If a floodplain study is required, WVDOH policy is <u>no</u> increase in the 100-year water surface elevation.

once Preliminary Plan Accepted
FINAL PLAN SUBMITTAL (4 COPIES)

INCLUDED	DESCRIPTION
	To be submitted for approval upon resolution of comments from preliminary plan and storm water management submissions. Include the following items in the submittal.
✓	1. Four (4) copies of the final plans. <i>Signed & stamped</i>
✓	2. Include revision date(s) on plan sheets as needed.
✓	3. Four (4) copies of blank, signed WVDOH form MM-109. Must use double-sided 8 1/2" x 14" form.
✓	4. If any proposed highway improvements extend beyond limits of existing State right of way, the applicant shall establish new right of way limits beyond the area of improvement.
✓	5. Additional right of required for proposed improvements shall be dedicated to the WVDOH.
✓	6. Applicant shall provide metes and bounds description and plat depicting additional right of way area with the final plan submittal.
✓	7. Right of way plat and description are to be prepared in accordance with WVDOH right of way standards contained in WVDOH Design Directives DD 301 and DD 312.

① Once in the final Plan Stage a surety Bond amount will be set.

② Permit will not be issued until Bond is received

WVDOH District Five Major Highway Entrance Permit Checklist (Subdivision, Commercial, Industrial)

DESIGN REFERENCES

Note: Publications 1 to 10 are available on-line at:

www.transportation.wv.gov/highways/engineering/Pages/publications.aspx

1. WVDOH Manual on Rules and Regulations for Constructing Driveways on State Highway Rights-Of-Way, dated May 2004.
2. WVDOH Standard Specifications Roads and Bridges, dated 2000, as revised by the most current Supplemental Specifications.
3. WVDOH Design Directives, dated January, 1 2004, as revised by the addendums.
4. WVDOH Standard Details Book Volume 1, dated January 1, 2000.
5. WVDOH Standard Details Book Volume 2, dated January 1, 1994.
6. WVDOH Typical Sections & Related Details, dated January 1, 2000.
7. WVDOH Manual on Temporary Traffic Control for Streets and Highways, 2006 Edition.
8. WVDOH Traffic Engineering Directives, dated February 22, 2005.
9. WVDOH Sign Fabrication Manual, dated September 2005.
10. WVDOH Erosion and Sediment Control Manual, dated March 1, 2003, as revised by the addendums.
11. WVDOH Drainage Manual, dated 1984.
12. AASHTO Policy on Geometric Design of Highways and Streets, dated 2004 (Green Book).
13. AASHTO Roadside Design Guide, dated 2002.
14. FHWA Manual on Uniform Traffic Control Devices for Street and Highways, 2003 edition.
15. WVDOH County Highway Maps can either be purchased on-line at:
www.transportation.wv.gov/highways/programplanning/gti/Pages/availablemaps.aspx

or, they are available for download as a PDF file at:

www.transportation.wv.gov/highways/programplanning/gti/Pages/WVCountyMaps.asp

16. Copies of the Encroachment Permit Form MM-109 can be obtained from the WVDOH District Five Headquarters Office, or at any WVDOH County Maintenance Headquarters.

The MM-109 form is also available on-line as a PDF file. Be sure to follow the directions at the bottom of the web page for printing the form correctly, as it must be submitted as a 8 ½" x 14" double-sided form:

www.transportation.wv.gov/highways/maintenance/Pages/EncroachmentPermits.aspx

Berkeley County Public Service Water District
83 Monroe Street
P.O. Box 737
Martinsburg, WV 25402-0737
www.berkeleywater.org
Phone (304) 267-3855
Fax (304) 267-3864

*Scott &
Send to Kim @ County
Eng. office
File - / Dev & Case*



January 7, 2011

Jefferson County Public Service District
340 Edmond Road, Suite A
Kearneysville, WV 25430

Attn: Susanne Lawton, General Manager

Re: Water Service for Paynes Ford Station, Section 2

Dear Susanne,

This is to confirm that the Berkeley County Public Service Water District (District) has agreed to provide water service to Paynes Ford Station. This commitment dates from 2002, at which time the District agreed to serve the entire development, a total of 218 residential units.

We currently have approved plans for installation of water mains for 17 homes in Paynes Ford Station Section 1. The next phase, comprising 37 lots, is within the scope of the overall project that the District has already agreed to serve.

If you have any questions, please call me.

Sincerely,
BERKELEY COUNTY PUBLIC SERVICE WATER DISTRICT

Christine E. Thiel, P.E.
District Engineer

Please include the Concept Plan plat regarding Paynes Ford that was included in your 2-22-08 packet. If you need an additional copy, please call our office 304-728-3228.

Before the Planning Commission of Jefferson County, West Virginia

In the Matter of: The Request by Far Away Farm, LLC for tolling of Deadlines and/or a Variance to Extend the expiration Date of the Community Impact Statement until March 2, 2015

On the 14th Day of December, 2010, the applicant, Far Away Farm, LLC, appeared and requested a tolling of the expiration date of the previously issued Community Impact Statement until March 2, 2015. In the alternative, the applicant requested a variance of the expiration date until the same date.

Prior to consideration the formal requests, applicant's counsel Nathan Cochran, Esquire, asked certain members of the Planning Commission recuse themselves because of their involvement in a lawsuit filed by the Planning Commission against the applicant. He specifically requested Mr. Maxey, Mr. Taylor, Mr. Trumble, Mr. Baty, Ms. Ethers, and Ms. Morgan recuse themselves. After an executive session to receive legal advice, each member individually declined to recuse themselves upon the record.

The Staff report was presented. The professional planning staff recommended denying the request for tolling until March 2, 2015 but recommended an extension July 1, 2012 as consistent with other recent extensions.

The Planning Commission then heard from the applicant on the merits of its requests for tolling and/or a variance to extend the expiration date of its Community Impact Statement. The heart of applicants request is that litigation caused delays to the project which justifies tolling of the deadlines on a day-for-day basis. During questioning, the applicant stated that it had made no progress on the project beyond the initial Community Impact Statement (CIS) and stated that the on-going litigation prevented further progress even during the periods of time in which

litigation was not pending. Without waiving the claim for tolling, the applicant went on to set forth the basis for a variance addressing each of the four variance criteria as follows:

- “1) The request is not contrary to public interest and that there would be public expense and time if the project had to start again from the beginning and that the development of the property had not been proven to violate any historic issues.
- 2) A literal enforcement of this Ordinance would result in an unnecessary hardship financially for the developer and require additional expense to the County.
- 3) The request is not the result of a self-imposed hardship due to the time in legal Proceedings which the applicant did not initiate.
- 4) The spirit of the Ordinance will be observed and substantial justice done because Far Away Farms had followed all the requirements presented to them in order to be allowed to proceed with the development.”

The portion of the record of the Planning Commission meeting pertaining to this application and the official minutes thereof are incorporated herein by reference as if set forth in full herein.

After questioning the applicant and after discussion and deliberation, the Planning Commission by unanimous vote, DENIED the tolling request because the applicant failed to convince the Planning Commission tolling of deadlines was justified. Furthermore, the Planning Commission DENIED the applicants request for a variance because the applicant failed to meet its burden to demonstrate that the request for variance satisfied all four variance requirements. Specifically, the applicant did not prove that granting the variance was in the public interest since granting the variance would allow the development to proceed under 30-year-old subdivision regulations that do not conform with the current subdivision regulations.

Entered this 8th day of February, 2011 the Jefferson County Planning Commission by

John Maxey, President

*Please include the
Draft Zoning
Ordinance
Amendments that
you were given at
the last PC meeting.
If you need an
additional copy,
please call our office
304-728-3228.*