

THE BERKELEY COUNTY PLANNING COMMISSION MINUTES

The Berkeley County Planning Commission met in a regular session on March 21, 2022 in the Council Chambers at 400 W. Stephen Street, Martinsburg, West Virginia.

1. CALL TO ORDER

The meeting was called to order at 6:00 p.m. by Linda Barnhart, presiding.

2. ROLL CALL

- a. **PLANNING COMMISSION MEMBERS PRESENT:** Linda Barnhart, Eddie Gochenour, Tim Lewis, Vickana Norton, and Eric Goff.
- b. **MEMBERS ABSENT:** Nic Diehl, Derick Smith and Dan Gantt
- c. **STAFF:** Laura Hoffmaster, Senior Planner; Monique Boots, Planner II; Sarah Sandri, Administrative Assistant; Doug Smith, County Engineer; Anthony Delligatti, Legal Director.

3. APPROVAL OF THE AGENDA

ACTION TAKEN: The motion was made by Eric Goff and seconded by Eddie Gochenour to approve the agenda. Call for question. The motion carried unanimously.

4. SUNSHINE LAW SPEAKER: None

5. APPROVAL OF MEETING MINUTES

- a. **ACTION TAKEN:** The motion was made by Eric Goff and seconded by Tim Lewis to approve the March 7, 2022 meeting minutes. Call for question. The motion carried unanimously.

6. PUBLIC HEARINGS

REQUEST FOR FINAL PLAT APPROVAL

a. Berkeley Ridge, Section 2, Phase 2, Lots 318-399, File# 2202-041

The site is located on the east side of the existing Berkeley Ridge subdivision, north of Spring Mills Middle School.

The phase proposes 82 townhome lots on approximately 8.2 acres, to be served by public water and sewer.

Laura Hoffmaster read the description and project notes.
Steve Cvijanovich was present representing the project.

There were no comments from the public.

ACTION TAKEN: The motion was made by Eddie Gochenour and seconded by Eric Goff to close the Public Hearing. Call for question. The motion carried unanimously.

ACTION TAKEN: The motion was made by Eddie Gochenour and seconded by Eric Goff to approve the Final Plat contingent upon receipt of surety in the amount of \$925,614.00 and a completed Developer's Agreement. Call for question. The motion carried unanimously.

b. High View Estates, Phase 3, Lots 1-5 & 23-24, File# 2112-458

The property is located at the intersection of Thatcher Road (WV Sec. Rt. 16) and Tuscarora Pike (WV Sec. Rt. 15).

The developer is proposing 7 single family lots on approximately 16 acres, to be served by private well and septic.

Laura Hoffmaster read the description and project notes.
Mike Roberts was present representing the project.

There were no comments from the public.

Eddie Gochenour asked about the layout of the land and asked if the downslope is graded for the Stormwater.

Mike Roberts answered that this is a different drainage area and has its own Stormwater management.

ACTION TAKEN: The motion was made by Eric Goff and seconded by Eddie Gochenour to close the Public Hearing. Call for question. The motion carried unanimously.

ACTION TAKEN: The motion was made by Eddie Gochenour and seconded by Eric Goff to approve the Final Plat contingent upon receipt of surety in the amount of \$290,865.60 and a completed Developer's Agreement. Call for question. The motion carried unanimously.

REQUEST FOR WAIVER

c. Fort Evans, File# 2202-055 tied to #2202-050

The site is located along the west side of Winchester Avenue (US Rt. 11), with access being located approximately 500' north of Evans Run Drive (WV. Sec. Rt. 34/11).

The project proposes 32 single family attached lots, on approximately 5.3 acres, to be served by public water and sewer.

Laura Hoffmaster read the description and project notes.
Steve Cvijanovich was present representing the project.

Public Comment:

Steve Cvijanovich stated that the staff report was written and since then a few changes to the conditions were being recommended.

Jim Griffin, president of Pike view West HOA, stated that he is concerned about the parking and water runoff. He stated that there are some houses in the flood plain and they flood when it rains really hard. He also stated that the sewer system is overloaded because of the Commons and he does not believe it can handle any more waste. He stated that the water is worse from the Interstate and he is concerned if the ponds will fail. He stated with more houses comes more asphalt and more water runoff.

Linda Barnhart reminded everyone that this is for a waiver and some comments will be better explained at the design stage of the project.

John Slough, resident on Evans Run Road, stated that he is concerned about adding anything else to the sewer because it cannot handle it. He stated that there has been no increase in the sewer and it will start flooding out of the top. He stated that there is more land in Berkeley County and he has a problem with the development and the smell.

Doug Smith stated that the applicant is in contact with the sewer board and they will hear concerns and will possibly have to do upgrades.

Linda Barnhart stated that the Planning Commission does not invite the projects, they are there to regulate. She stated the decision is up to the Sewer Board and the Planning Commission has limitations on what they can ask for.

Berry Mills, resident on Still Meadow Drive, asked where the entrance will be.

Steve Cvijanovich answered that there is a Right-of-Way on other's lands in between two homes coming off Route 11. He stated that the public hearing is for a parking waiver and the questions being asked will be answered at the Sketch public hearing. He stated that the sketch does not propose access on to Evans Run Road. He stated that DOH has not requested a Traffic Impact Study. He stated there is already an existing center turn lane. He also stated that this project had approval in 2005 with a higher lot yield. Robert Mudge, resident on Still Meadow Drive, asked if there would be another public hearing notice for the traffic and Stormwater management concerns. He stated many people are concerned about the entrance and traffic problem. He stated Evans Run Creek could not handle anymore run off. He asked about parking regulations.

Linda Barnhart answered that there will be another posting and Public hearing for sketch.

Laura Hoffmaster stated that single family residences require 2 and townhouses/ villas require 2 one site and one offsite.

Larry Wolf, resident on Dexter Drive, asked is the sketch is available so they can be more educated for the meetings.

Steve Cvijanovich answered that all the information is uploaded to the county's site.

Laura Hoffmaster gave him information in order to get to the website.

Tim Lewis asked about the about the side walk and how staff was asking for 38, but they came up with 36.

Steve Cvijanovich answered that he originally proposed 36 feet from the back of the sidewalk to the face of the dwelling. That would equal 2 18 foot cars. He stated after staff reviewed it they made the comment and the 36 preceded the creation of the staff report. He stated they compromised on a 39-foot dimension between the back of the sidewalk and the front of the garage so the vehicle would not impede the sidewalk.

Doug Smith stated that they had an oversized roadway section and shrunk it down to gain the extra footage.

Eddie Gochenour asked if staff is okay with the compromise.

Doug Smith stated yes he is okay with it.

Tim Lewis asked about the fourth condition.

Steve Cvijanovich answered that the driveway area shall not compose more than 50 percent of the front yard area in a garage style townhouse condition. He stated that they would have a single width driveway (10 feet) and no less than 39 feet long with a garage. He stated that they are proposing to add to that a driveway shall not compose of 75 percent of the front yard area in a non-garage style townhouse. This would be based on a 39-foot deep space and 19 foot space adjacent. He stated that last condition that he suggests would that the number of non-garage units in the community shall not exceed the number of off street parking spaces proposed (12). He stated the remaining 20 or more would be the garage units with the single driveway.

Tim Lewis asked about green space.

Laura Hoffmaster stated that the impervious coverage for the site cannot exceed 60% and they would be held to that number.

Steve Cvijanovich stated that with the Stormwater management area and the open space they do not expect to be close to that number.

Eddie Gochenour stated that he is not comfortable with the layout. He stated he is visualizing that it will just look like a parking lot and he would like to see additional space for that third car offsite.

Steve Cvijanovich asked if number 4 read as the staff report if he will be accepting.

Eddie Gochenour stated that sounds to be more acceptable.

Steve Cvijanovich stated that limits to only garage units in order to get that third parking spot.

ACTION TAKEN: The motion was made by Eric Goff and seconded by Tim Lewis to close the Public Hearing. Call for question. The motion carried unanimously.

ACTION TAKEN: The motion was made by Tim Lewis and seconded by Eddie Gochenour to table the decision to the waiver to Section 801, Table 8-1A(8), of the Berkeley County Subdivision Ordinance (2009), requiring 3 parking spaces per dwelling unit, with a minimum of 1 parking space per dwelling unit being off-site until the April 4, 2022 meeting. Call for question. The motion carried unanimously.

d. J. Douglas Bayer, File# 2202-060 tied to 2202-054

The site is located on Baron Drive, approximately 500' east of Winchester Avenue (US Rt. 11).

The developer is proposing the subdivision of an existing 15.11 acre parcel, creating 3 out-sale parcels and 1 residue parcel. Lot 1 is proposing a new 0.49 acre parcel, Lot 2 is proposing a new 0.39 acre parcel, Lot 3 is proposing a new 3.23 acre parcel (with existing residential structure), and a 10.73 acre residue parcel. Lots 1 & 2 will be served by public water and sewer and Lot 3 is currently served by public utilities for the existing residence.

Laura Hoffmaster read the description and project notes.

Doug Bayer was present representing the project.

Public Comment:

Doug Bayer stated that he reserved two Right-of-ways into his property off of Barron Drive. He stated that he posed the public hearing sign and he sent an email to the homeowners about his subdivision and he offered to pay the \$500 road maintenance. He stated that he reserved the rights to Southlawn Estates in order to add additional lots. He stated that it is hard to keep up with 14 acres and he wants to sell off two lots, out his residence on a smaller lot, and the balance of the acreage is being used by Kensington Terrace for Stormwater Management. He stated he does not know where is states that a mainline extension is needed.

Jackie Columbia, resident of Southlawn Estates, stated that she and a number of the HOA members are not in favor of the variance being granted. She stated that they were not given approval from the HOA. She is concerned that if he is allowed to subdivide everyone will want to subdivide their lots. She stated that they are concerned about the additional traffic on their roads.

Steve Brock, resident on Malibu Court, stated that they have a great development with originally 18 homes. He stated that Mr. Bayer turned over the easement in the early 90's to the HOA. He stated on 2020 Mr. Bayer wanted to become a part of the HOA and tried to form a Board of Directors with 3 people, one being himself and he would pick the other 2 directors. He stated in fall of 2020 the homeowner's were forced to pay \$500 each for a special assessment. He stated that the roads were paved for \$23, 000 to make them look nice. He stated that he is concerned that the right-of-way would be damaged by heavy equipment to build the new homes on the newly created lots. He stated that he believes Mr. Bayer is trying to create lots on the backs of the current homeowners. He stated that the HOA was destroyed because of Mr. Bayer and his business adventure and it is not fair to the current homeowners. He stated that he and his neighbors are totally against the subdivision and they do not think it is fair to the HOA.

Lori Copenhaver, resident on Malibu Court, stated that Mr. Bayer got into a verbal altercation with her husband and that he is not easy to deal with. She stated that they did not receive an email about the project and that his property is not on their plat. She stated that she does not understand how he can keep telling the HOA what to do. She stated that the roads were not handed over in good condition and they are constantly having to be patched. She stated that she believes that the large equipment will mess up the newly done roads.

Doug Bayer stated that the HOA lost the charter and they would not renew the state charter. He stated 15 years ago he had someone do engineering on the roads at his expense to see what was causing the failure. He stated that it was caused by the homeowners they cut the street for underground electric and the ditches were filled in. He stated that he was not paying into the HOA because it was not there.

He stated that there was a vote to do the roads. He also stated that there was a notice sent out to be on the Board of Directors and no one wanted to be on it so it was appointed.

Linda Barnhart stated that they need to be focusing on the waiver.

Bernard Fennel, resident on Barron Drive, asked if there was a HOA. He stated he has been getting letters stating that he needs to pay HOA fee's even though he is not a part of the HOA. He stated he received a \$500 request for road maintenance from Mr. Bayer. He stated he does not want to be strong-armed into paying dues because he is not required to.

Mr. Bayer stated any notice is sent out by the secretary of the HOA, not him.

ACTION TAKEN: The motion was made by Eric Goff and seconded by Tim Lewis to close the Public Hearing. Call for question. The motion carried unanimously.

ACTION TAKEN: The motion was made by Eddie Gochenour and seconded by Eric Goff to deny the waiver to Section 305.4.1, of the Berkeley County Subdivision Ordinance (2009), requiring a 2 acre minimum lot size and WVDOH road frontage, to proceed through the Preliminary/Final Plat process. Call for question. The motion carried unanimously.

REQUEST FOR SKETCH PLAN ADVANCEMENT

e. Eagle School Road Mini Storage, File #2111-429

The site is located on the east side of Eagle School Road (WV Sec. Rt. 45/5), approximately 600' north of the intersection of Veronica Drive.

The developer is proposing a self-storage facility, on 3.57 acres. No water or sewer utilities are proposed for the site.

Monique Boots read the description and project notes.
Steve Cvijanovich was present representing the project.

There were no comments from the public.

ACTION TAKEN: The motion was made by Eric Goff and seconded by Eddie Gochenour to close the Public Hearing. Call for question. The motion carried unanimously.

ACTION TAKEN: The motion was made by Eddie Gochenour and seconded by Eric Goff to approve the advancement of the Sketch Plan to the Preliminary Plan stage. Call For question. The motion carried unanimously.

f. The Lakes at Martinsburg, Phases 3&4, File #2111-459

The site is located off Waver Lane, approximately .80 miles from Williamsport Pike (US Rt. 11).

The developer is proposing 122 single family detached lots, on approximately 53 acres, to be served by public water and sewer.

Monique Boots read the description and project notes.
Chad Wallen was present representing the project.

Public Comment: Chester Farmer, resident in the Lakes of Martinsburg, stated that he had recently moved here from Gainesville, Virginia. He stated that he would like to learn more about the process of the Planning Commission. He stated that his main concern is the traffic in and out of Weaver Lane onto Winchester Avenue.

ACTION TAKEN: The motion was made by Eric Goff and seconded by Tim Lewis to close the Public Hearing. Call for question. The motion carried unanimously.

ACTION TAKEN: The motion was made by Tim Lewis and seconded by Eric Goff to approve the advancement of the Sketch Plan to the Preliminary Plan stage. Call For question. The motion carried unanimously.

7. REQUEST FOR FINAL PLAT DETERMINATION

a. Winmar Estates, Section 1, Phase 1, Lots 1-11 & 82-87, File #2112-443

The site is located on the west side of Winchester Ave. (US Rt. 11), 0.25 miles south of Runnymede Road (WV Rt. 26).

The final plat proposes 17 townhome lots, on 3.2 acres to be served by public water and sewer.

Monique Boots read the description and project notes.
Chad Wallen was present representing the project.

Tim Lewis asked about the swale that runs toward the railroad tracks.
Chad Wallen stated that the swale would be rerouted.

ACTION TAKEN: The motion was made by Eddie Gochenour and seconded by Tim Lewis to accept staff recommendation for the Final Plat Determination and advertising of a public hearing for consideration of Final Plat Approval at the April 18, 2022 Planning Commission Meeting. Call for question. The motion carried unanimously.

8. STAFF/ COUNSEL DISCUSSION/ACTION/ MOTION

Doug Smith stated that he sent out an email to the Planning Commission members about engineering sending comments about Traffic Impact Studies back to Department of Highways. He stated that the Ordinance does state that engineering can make recommendations to DOH about upgrades. He asked permission from the Planning Commission members if it is appropriate to send his comments to Department of Highways. Linda Barnhart and the rest of the Planning Commission members agreed that it would be appropriate from engineering to send comments to Department of Highways.

9. ADJOURNMENT

ACTION TAKEN: The motion was made by Eric Goff and seconded by Tim Lewis to adjourn the meeting at 7:40 PM. Call for question. The motion carried unanimously.

Respectfully submitted,
Sarah Sandri
Administrative Assistant

Berkeley County Planning Commission Meeting Minutes, March 21, 2022.