

THE BERKELEY COUNTY PLANNING COMMISSION MINUTES

The Berkeley County Planning Commission met in a regular session on April 4, 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, Nic Diehl and Eric Goff.
- b. MEMBERS ABSENT: Derick Smith and Dan Gantt
- c. STAFF: Doug Smith, County Engineer; Nathan Emery, Planner; Jeff Mauzy, Assistant Legal Director.

3. APPROVAL OF THE AGENDA

ACTION TAKEN: The motion was made by Eric Goff and seconded by Nic Diehl 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 Vickana Norton to approve the March 21, 2022 meeting minutes. Call for question. The motion carried unanimously.

6. PUBLIC HEARINGS

REQUEST FOR FINAL PLAT APPROVAL

a. Spring Mills Commons - Lot 29B, File# 2112-456

The property is located on the east side of TJ Jackson Drive, approximately 0.35 mile south of Hammonds Mill Road (WV RT 901).

The final plat proposes the creation of a 3.4-acre parcel, for the previously approved 210 storage units, which will not have water or sewer utilities. Engineering is currently holding a Grading and Final Plat Bond in the amount of \$176,586.00.

Doug Smith 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 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 approve the Final Plat. Call for question. The motion carried unanimously.

b. Arcadia Springs North, Section 1, Phase 5, Lots 22-47, File# 2201-012

The property is located on Van Clevesville Road, approximately 2000' east of its intersection with Needy Road.

The developer is proposing 26 single family lots on approximately 7 acres, to be served by public water and sewer.

Doug Smith read the description and project notes.
Lynch Christian 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 Nic Diehl to approve the Final Plat contingent upon receipt of surety in the amount of \$522,852.00 and a completed Developer's Agreement. Call for question. The motion carried unanimously.

c. Shepherds Cove, Section 2, File# 2201-018

The property is located on Swift River Way; northeast of intersection of Scrabble Road (WV Rt. 5) and Cedar Lane (WV Sec. Rt. 5/6).

The developer is proposing 6 single family lots, on approximately 30 acres, to be served by private well and central sewer system. A Final Plat bond is not required since all improvements have been completed and approved with the grading bond, which was released in March 2016.

Doug Smith read the description and project notes.
Andy DiMagno was present representing the project.

There were no comments from the public.

Andy DiMagno stated that the Covenants & Restrictions have been submitted but he is back in fourth with Monique Boots because he was told it was not needed.
Eddie Gochenour asked if it would be okay to approve the final plat without having approved Covenants & restrictions.
Doug Smith answered that the plats would not be released until the Covenants & Restrictions were approved.

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 approved Covenants & Restrictions. Call for question. The motion carried unanimously.

d. Butler's Crossing Commercial, File# 2109-346 tied to 2201-006; 2112-446; 2007-048

The site is located on Winchester Avenue (US Rt. 11) and Gerrardstown Road (WV Rt. 51)

The project proposes a 44,540 square foot grocery store (Lot 1G) with an adjacent 14,400 square foot retail building (Lot 1F) on approximately 18.48 acres to be served by public water and sewer. Engineering is currently holding a Grading Bond and Final Plat bond in the amount of \$907,800.00.

Doug Smith read the description and project notes.
John Wright 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 Tim Lewis and seconded by Eric Goff to approve the Final Plat contingent upon completed Developer's Agreement. Call for question. The motion carried unanimously.

REQUEST FOR WAIVER

e. APM Residences, File# 2203-066

The property is located behind APM Inn & Suites on McMillan Court and adjoining Edwin Miller Blvd. and the Interstate 81 Interchange. Site will be accessed by Mossy Lane.

The project proposes 348 dwelling units within 4 apartment buildings (three 6-story and one 5-story) and the redevelopment of an existing hotel into a new 11-story (12 rooms/floor) hotel. The total site is approximately 16 acres, and will be served by public water and sewer.

Doug Smith read the description and project notes.
Rob Milne was present representing the project.

There were no comments from the public.

Eddie Gochenour asked about Mossy Lane, if it was the main road.

Rob Milne answered that it starts at McMillan Court and intersects at Mossy Lane.

Eddie Gochenour asked if McMillan is state maintained.

Rob Milne answered yes it is state maintained. He stated based on the traffic study they would improve Mossy and McMillian from the new proposed entrance to the interstate.

Linda Barnhart asked about the other approvals needed.

Doug Smith stated they will come in once the waiver is decided on to figure out how many units are needed and it will come in front of Planning Commission again. He stated this is just for the parking.

Eddie Gochenour asked about entrances.

Rob Milne answered that the main entrance will be off Mossy Lane and they have discussed an emergency access through the hotel property. He stated DOH did not want the entrance where it was so they were asked to move it back to Mossy Lane. He stated they are on the Sketch plan stage and are trying to get the waivers so the other approvals can be worked out.

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 Tim Lewis and seconded by Eddie Gochenour to approve the waiver to Section 801, Table 8-1A #7 (off-street parking), reducing the number of parking spaces from 2.5 spaces/unit, plus 1 space per employee; plus 10% additional spaces for guests to 2.1 spaces/unit, plus 1 space per employee; plus 10% additional spaces for guests. Call for question. The motion carried unanimously.

f. Butts Properties, LLC, File# 2203-070

The site is located on the south side of Nadenbousch Lane (WV Rt. 34), approximately 0.7 miles east of Winchester Avenue (US Rt. 11), in the Hillcrest Heights subdivision.

The developer is proposing the subdivision of an existing 0.65 acre parcel, creating one 0.38 acre parcel and one 0.28 acre parcel. Both parcels would be served by public water and sewer

Doug Smith read the description and project notes.
No one was present representing the project.

Public Comment:

Curtis Davis, resident of Hillcrest Subdivision, stated that as a Homeowners Association they have not been notified of any subdivision. He stated that their Covenants restricts what can be built and set-backs. He stated that the developer has not responded to people in the community about what he was doing with the property.

Linda Barnhart asked if he knew what his Covenants & Restrictions permit.

Mr. Davis stated that he had a copy and gave it to Jeff Mauzy to review.

Linda Barnhart asked if he knew if subdivisions of lots were allowed by their Covenants and restrictions.

Mr. Davis answered that he did not know at the top of his head. He stated that he believes it would have to be approved by the HOA.

Linda Barnhart stated that if the by-laws or Covenants are not being adhered to that it might be a legal issue for the HOA.

Jeff Mauzy stated that he did not see anything where it would restrict subdivision but it would have to be a HOA issue.

Eddie Gochenour asked if there was a minimum lot size in the Covenants & Restrictions.

Mertle Snow answered that the lots are for one dwelling.

Nic Diehl stated that it looks like the parcel was two that was merged together so basically Mr. Butts is just asking to split them back up.

Jerome Steel, resident on Knoll Drive, stated that he owns the lot adjoining and he failed to put a stake for the survey.

Linda Barnhart stated that there was not a plat submitted for the waiver. She stated that the lots were divided in 1985 they were merged back together and now Mr. Butts wants to make the lots two again. She stated that the survey may not be completed yet and that he can call the surveyor.

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

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

g. Danny Williams, LLC, File# 2203-076

The site is located on Specks Run Road (WV RT 28), approximately 515' north of Avanti Drive (WV RT 28/2).

The developer is proposing the creating of two (2) 0.54 acre parcels, to be served by private well and public sewer.

Doug Smith read the description and project notes.

Andy DiMugno was present representing the project.

There were no comments from the public.

Andy DiMugno stated that when they requested the waiver they did meet the minimum for lot size, not for Prelim/ Final. He stated this waiver is only a half-acre and Mr. Williams is trying to live on the left hand side and he wants two lots on the ride for his son and daughter.

Linda Barnhart asked if they had approval from the Health Department for the well.

Mr. DiMagno answered they do not and they are under the minimum size for the Health Department. Linda Barnhart asked what the Health Department will do if the waiver is approved. Mr. DiMagno answered that they do not have to give approval for the lots. Tim Lewis asked if they have spoken to the Health Department about the permits. Mr. DiMagno answered that they said they would give approvals if they meet the standard and there is no standard because there is no septic so they do not have to stay 100 feet from it.

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 Tim Lewis to deny the waiver to Section 504.E, Table 5-5, of the Berkeley County Subdivision Ordinance (2009), requiring a minimum lot size of 40,000 square feet for single family residential lots being served by private well and public sewer. The motion died due to lack of second.

ACTION TAKEN: The motion was made by Eddie Gochenour and seconded by Vickana Norton to approve the waiver to Section 504.E, Table 5-5, of the Berkeley County Subdivision Ordinance (2009), requiring a minimum lot size of 40,000 square feet for single family residential lots being served by private well and public sewer. Call for question. The motion carried 3-2

7. PRELIMINARY PLAN APPROVAL

a. Estates at Edgemoor, File# 2011-317

The project is located off of Specks Run Road (WV Rt. 28), approximately 3 miles from Winchester Avenue (U.S. Route 11) and approximately 3.9 miles from Interstate-81.

The project proposes 89 single family detached lots, on approximately 132 acres, to be served private well and public sewer.

Doug Smith read the description and project notes.
Griffin Sepp was present representing the project.

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

b. Charles Town Road Storage, File# 2108-321

The project is located at the south side of Charles Town Road (WV Rt. 115), approximately 600 feet east of the intersection with the WV Route 9 Opequon Connector (WV Sec. Rt. 9/18).

The developer is proposing a 14,100 sq. ft. self-storage facility, on approximately 1.6 acres, which will not be served by utilities.

Doug Smith read the description and project notes.
Mike Roberts was present representing the project.

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

c. The Villas at Warm Springs, File# 2109-330

The project is located on the east side of Warm Springs Avenue, approximately 900' North of Plaza Court.

The developer is proposing 14 duplex lots and 1 single family detached lot, on approximately 3.3 acres, to be served by public water and sewer.

Doug Smith read the description and project notes.
Steve Cvijanovich was present representing the project.

ACTION TAKEN: The motion was made by Eddie Gochenour and seconded by Nic Diehl to approve the advancement of the Preliminary Plan to the Final Plat stage. Call for question. The motion carried unanimously.

8. REQUEST FOR FINAL PLAT DETERMINATION

a. Bridle Creek, Phase 8, Lots 550-557 & 560-574, File #2201-027

The project is located along the east and west sides of Barrel Race Road within the Bridle Creek subdivision.

The phase proposes 23 single family residential lots on approximately 19 acres, to be served by public water and sewer.

Doug Smith read the description and project notes.
Steve Cvijanovich was present representing the project.

ACTION TAKEN: The motion was made by Tim Lewis and seconded by Eric Goff to accept staff recommendation for the Final Plat Determination and advertising of a public hearing for consideration of Final Plat Approval at the May 2, 2022 Planning Commission Meeting. Call for question. The motion carried unanimously.

b. Arcadia Springs North, Section 1, Phase 6, Lots 121-124 & 214-228, File #2203-077

The project is located on Van Clevesville Road, approximately 2000' east of its intersection with Needy Road.

The developer is proposing 19 single family lots on approximately 7.3 acres, to be served by public water and sewer.

Doug Smith read the description and project notes.
Lynch Christian was present representing the project.

ACTION TAKEN: The motion was made by Eddie Gochenour and seconded by Eric Goff to accept staff recommendation for the Final Plat Determination and advertising of a public hearing for consideration of Final Plat Approval at the May 2, 2022 Planning Commission Meeting. Call for question. The motion carried unanimously.

9. REQUEST FOR WAIVER

a. 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.

Doug Smith read the description and project notes.
Steve Cvijanovich was present representing the project.

The public hearing was closed at the March 21, 2022 Planning Commission Meeting.

Steve Cvijanovich stated that after the last meeting they felt like it was a good time to prepare the supplemental letter that was included in the staff report. There were also a number of photographs added. He went on to explain the different photographs with examples of parking in various communities. He stated that he does not have any comments on the conditions that staff had presented in the staff report.

ACTION TAKEN: The motion was made by Eric Goff and seconded by Eddie Gochenour to un-table the project. Call for question. The motion carried unanimously.

ACTION TAKEN: The motion was made by Eddie Gochenour and seconded by Tim Lewis to approve 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 contingent on the following changes be made:

1. The depth of the driveway shall be measured from the back of the sidewalk (lots side of the sidewalk) to the face of the dwelling.
2. The stacking length per vehicle shall be 19-ft. and the total length for two vehicles shall be 38-ft.
3. The clear-width (cartway) of Mulhall Drive (face/curb to face/ curb) shall be 22.5-ft. "No Parking" signs shall be installed along the street where on-street parking is not provided.
4. The overall impervious surface of the project site shall not exceed 60%.

Call for question. The motion carried unanimously.

10. STAFF/ COUNSEL DISCUSSION/ACTION/ MOTION

Linda Barnhart stated that she spoke to Brian Ross about the subdivision ordinance and he stated that right now it is between the Engineering and Sewer Departments over Stormwater Management.

Doug Smith stated that he is working on the ordinance and he is doing a major edit. He stated that edits were made by legal for the Stormwater Management Ordinance from 2016. He stated that they are working to make sure the edits and the Stormwater Ordinance work together.

11. ADJOURNMENT

ACTION TAKEN: The motion was made by Eric Goff and seconded by Tim Lewis to adjourn the meeting at 7:22 PM. Call for question. The motion carried unanimously.

Respectfully submitted,
Sarah Sandri
Administrative Assistant

Berkeley County Planning Commission Meeting Minutes, April 4, 2022.