

THE BERKELEY COUNTY PLANNING COMMISSION MINUTES

The Berkeley County Planning Commission met in a regular session on April 7, 2025 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, Troy Barrett, Ron Truitt, Eric Goff, Mike Bush, and Tim Lewis.
- b. MEMBERS ABSENT: Vickana Norton, John Hardy, Dan Gantt
- c. STAFF: Laura Hoffmaster, Senior Planner; Sarah Sandri, Planner; Doug Smith, County Engineer; Jeff Mauzy, Deputy Legal Director.

3. APPROVAL OF THE AGENDA

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

4. SUNSHINE LAW SPEAKER: None

5. APPROVAL OF MEETING MINUTES

ACTION TAKEN: The motion was made by Eric Goff and seconded by Ron Truitt to approve the March 17, 2025 minutes. Call for question. The motion carried unanimously.

6. PUBLIC HEARINGS

REQUEST FOR WAIVER

a. Dunham Family Transfer – Lot 1-4, File# 2502-048

The site is located off Dunham Road (WV Sec. Rt. 7/11), along Ola Ja Lane (private right-of-way), approximately 1.5 miles south from the intersection of Back Creek Valley Road (WV Rt. 11) and Dunham Road (WV Sec. Rt. 7/11).

The developer is proposing four family transfer lots on 19.23 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.

Mike Bush stated that working with the new Subdivision Ordinance there will be some new issues or quirks that will come out and how they will be implemented. He stated he is in support of the waiver, but he wanted to make a comment that it is a tailored waiver and that the new lots are being brought into compliance with the width required. He stated that if they were to follow the ordinance without looking at the specific project, the actual right of way width would be greater than the right-of-way width of the access from the state road. He stated that it is an existing condition and a family transfer and also consideration of the state road right-of-way that it would dump out on.

Laura Hoffmaster stated that there are 3 waivers requested for the same section. She stated that the wording in the Ordinance could be different. She stated they did not consider older roads that are already created that are less than the required 50 feet.

Doug Smith stated that the road width should not be based on the state highway width. He stated that the waiver should be based on the right-of-way already being created and not being able to be improved. He stated he has seen projects come back to create a major subdivision and they are stuck with a 30 foot right-of-way and is concerned that it will continue to happen.

Mike Bush asked what the relation to the entrance permit would be if it were to become a larger subdivision.

Doug Smith stated that they would have to get an entrance permit from DOH. He said they would either have to deny the whole thing or live with it.

Laura Hoffmaster stated that if the ROW was 50 feet they have done everything they can so there is enough being dedicated for the future.

Mike Bush stated there could be another contingency being no further development, but he does not know if they have the authority to do that.

Laura Hoffmaster stated that the subdivision regulations wouldn't allow that to happen without getting that area in the front to have the 50 foot wide entrance for a design of roadway.

Doug Smith stated that after 400 foot long ROW it needs to be 50 feet wide.

Mike Bush asked how would a major plan come through if there is a requirement for 50 foot ROW.

Doug Smith stated that they would have to live with the road width if someone came in to develop the property.

Laura Hoffmaster stated they would have to come back in for another waiver. She stated the preference would obviously be to purchase more land to have that width requirement.

Mike Bush asked clarification if Doug Smith thinks that a developer in the future will say "you granted it once before you need to grant it again now".

Doug Smith stated that opens the door for developers to have the smaller ROW.

Linda Barnhart stated that the court of law the Planning Commission was determined to not be able to set a precedent. She stated that they have had subdivisions in the past not being able to get the 50 foot ROW and they are undeveloped unless the Planning Commission gave approval.

Tim Lewis asked about the road maintenance agreement.

Mike Roberts stated it would just be for the new lots being created.

Laura Hoffmaster stated there is nothing in the ordinance or legally that would make all the people on the road to be involved in the road maintenance agreement, just the new lots being created.

Mike Bush asked if 20 units came in.

Laura Hoffmaster stated it would not be a family transfer, and it would be a full site plan that would have more requirements than a family transfer plat.

ACTION TAKEN: The motion was made 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 waiver to Section 302.1.D.1, of the Subdivision and Land Use Ordinance (2025), requiring a 50' right-of-way from the proposed family transfer lot(s) to a WVDOH right-of-way contingent on the following:

1. The right-of-way be increased to 50' on the proposed lots
2. Proposed lots 1-4 enter into a road maintenance agreement to ensure future repair and maintenance

Call For question. The motion carried unanimously.

b. Gabriel – Calhoun Family Transfer, File# 2502-051

The site is located on the west side of Files Cross Road (WV Sec. 45/2), approximately half a mile north from its intersection with Shepherdstown Road (WV Rt. 45).

The developer is proposing a 5-acre residential lot, to be served by private well and septic. This subdivision would create a 13.5-acre residue lot, which is currently improved.

Laura Hoffmaster read the description and project notes.

Bre Calhoun was present representing the project.

There were no comments from the public.

Tim Lewis asked for clarification of the waiver.

Mike Bush asked if it was not a family transfer and someone wanted to put 15 lots the developer would have to ask a waiver to the 50 foot right-of-way or purchase the right- of-way at which point it would be

up to the Planning Commission to analyze the waiver and then it would be a question as to how many houses are enough to require more than the existing right-of-way.

Laura Hoffmaster stated that was correct.

Troy Barrett asked what the reason for the increase of required ROW in the Ordinance.

Laura Hoffmaster answered that reviews have been done under the 2009 Ordinance too long and they were seeing people would create family transfer lots and only dedicating 30 foot right-of-ways and coming back and wanting to develop the property further. She stated they are trying to get as much ROW as they can for the future.

ACTION TAKEN: The motion was made Eric Goff and seconded by Ron Truitt 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 waiver to Section 302.1.D.1, of the Subdivision and Land Use Ordinance (2025), requiring a 50' right-of-way from the proposed family transfer lot(s) to a WVDOH right-of-way contingent on the following:

1. The right-of-way be increased to from 24' to 50' on the residue parcel
2. Proposed Lot 3A owners and the residue parcel owners enter into a road maintenance agreement to ensure future repair and maintenance

Call For question. The motion carried unanimously.

7. PRELIMINARY PLAN APPROVAL

a. 5 Star Auto Spa, File# 2308-269

The site is located at 1111 Winchester Avenue (US Rt. 11), at the intersection of Apple Harvest Drive (WV Rt. 45) and Winchester Avenue (US Rt. 11).

The project proposes a 6,855 sq. ft. car wash and 10,290 sq. ft. vacuum enclosure, on 1.46 acres, to be served by public water and sewer.

Laura Hoffmaster read the description and project notes.

Hong Kim was present representing the project.

Troy Barrett asked about the entrance and exits at the busy intersection.

Doug Smith stated that DOH did not request a traffic study and their only upgrade requirement was the right in and right out.

Tim Lewis stated the bank's old entrance is moved back on Route 11.

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

8. PRELIMINARY/FINAL PLAT APPROVAL

a. Ridolfi, File# 2407-216

The project is located on the north side of Sawmill Road (WV Sec. Rt. 7/20); 1.5 miles west of intersection with Back Creek Valley Road (WV Rt. 7).

The project proposes the creation of one 9.28-acre residential lot and a 5-acre residue, to be served by private well and septic.

Laura Hoffmaster read the description and project notes.

Mike Roberts was present representing the project.

ACTION TAKEN: The motion was made by Mike Bush and seconded by Eric Goff to approve the

Preliminary/Final Plat. Call for question. The motion carried unanimously.

9. REQUEST FOR FINAL PLAT DETERMINATION

a. Nettle Junction – Section 2, Lots 3-6, File #2411-340

The property is located on the north side of Grade Road; approximately 350' east of its intersection with Kitchens Orchard Road.

The developer is proposing four single-family residential lots, on 11.27 acres, to be served by public water and private septic.

Laura Hoffmaster read the description and project notes.

Dan Llewellyn 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 5, 2025 Planning Commission Meeting. Call for question. The motion carried unanimously.

b. South Brook – Section 2, Phase 5- TH Lots 138-145 & 162-169; Lots 222-239, 252-258, 261-263 & 300-312, Lots 3-6, File #2412-397

The property is located on Shiley Road (WV Sec. Rt. 34/2), approximately 0.3 miles north of Hatchery Road (WV Sec. Rt. 11/8).

The final plat proposes 41 single-family lots and 16 townhouse lots on 44.84 acres, to be served by public water and sewer.

Laura Hoffmaster read the description and project notes.

Mark McDonald was present representing the project.

ACTION TAKEN: The motion was made by Tim Lewis and seconded by Ron Truitt to accept staff recommendation for the Final Plat Determination and advertising of a public hearing for consideration of Final Plat Approval at the May 5, 2025 Planning Commission Meeting. Call for question. The motion carried unanimously.

c. Communities of Burwell Phase 11, Lots P1-14; H 26-37; SWM area 13; Open Space 14-16; 19, File #2410-301 tied to 021-06

The property is located on Sec. Rt. 8, approximately 1 mile from Nipetown Intersection with Sec. Rt. 11/7.

The final plat proposes 28 residential lots on 20.1486 acres, to be served by public water and sewer.

Laura Hoffmaster read the description and project notes.

Mike Roberts was present representing the project.

Mike Bush asked about the updated school and traffic impact studies. When asked when they are required to be updated when projects linger.

Doug Smith stated that were updated with a major plan change and DOH did not require anymore updated because they have not reached the 281 lot threshold. He stated after the next phase they will reach that threshold and will have to do the upgrades.

Mike Bush asked if it was consistent with the initial preliminary plan and what the trigger would be for DOH to look at the traffic study again.

Doug Smith answered an increase in ADT.

Tim Lewis asked if the issues with the entrance on Nipetown have been resolved
Mike Bush stated that the project would include a second entrance on Nipetown, which will elevate some of the traffic issues.

ACTION TAKEN: The motion was made by Tim Lewis and seconded by Mike Bush to accept staff recommendation for the Final Plat Determination and advertising of a public hearing for consideration of Final Plat Approval at the May 5, 2025 Planning Commission Meeting. Call for question. The motion carried unanimously.

d. Communities of Burwell Phase 12, Lots J9-J18; L39-L46, File #2410-302 tied to 021-06

The property is located on Sec. Rt. 8, approximately 1 mile from Nipetown Intersection with Sec. Rt. 11/7.

The final plat proposes 18 residential lots on 1.8609 acres, to be served by public water and sewer.

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

Linda Barnhart asked about amenities or improvements.
Mike Roberts stated there is a large recreational area in the middle, but it has not been constructed yet.
Linda Barnhart asked if any of the residents are complaining that the amenities are not in yet.
Doug Smith stated in the new ordinance the amenities will need to progress with the project.

ACTION TAKEN: The motion was made by Tim Lewis and seconded by Ron Truitt to accept staff recommendation for the Final Plat Determination and advertising of a public hearing for consideration of Final Plat Approval at the May 5, 2025 Planning Commission Meeting. Call for question. The motion carried unanimously.

10. STAFF/ COUNSEL DISCUSSION/ACTION/ MOTION

- a. Comprehensive Plan Update- Laura Hoffmaster gave an update to the Comprehensive Plan. She stated that the survey is live online. She also stated that the public workshops would start this week.

11. ADJOURNMENT

ACTION TAKEN: The motion was made by Eric Goff and seconded by Ron Truitt to adjourn the meeting at 6:25pm. Call for question. The motion carried unanimously.

Respectfully submitted,
Sarah Sandri
Planner I