

THE BERKELEY COUNTY PLANNING COMMISSION MINUTES

The Berkeley County Planning Commission met in a regular session on July 21, 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, John Hardy, Tim Lewis, Eric Goff, Vickana Norton, Dan Gantt and Mike Bush.
- b. MEMBERS ABSENT: Trot Barrett and Ron Truitt
STAFF: Monique Boots, Planner; Sarah Sandri, Planner; Doug Smith, County Engineer; Brian Ross, Director of Community Development; Anthony Delligatti, Legal Director.

3. APPROVAL OF THE AGENDA

ACTION TAKEN: The motion was made by Eric Goff and seconded by Tim Lewis 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 Mike Bush and seconded by Tim Lewis to approve the July 7, 2025 minutes with minor revisions. Call for question. The motion carried. Eric Goff, Vickana Norton and Dan Gantt abstained due to absence.

6. PUBLIC HEARINGS

REQUEST FOR RECONSIDERATION

a. Nadenbousch Pines, Phase 3, Lots 46-53 & 59, File# 2506-179 tied to 2412-399

The project is located on Nadenbousch Lane (WV Rt. 34), approximately one (1) mile east of its intersection with Winchester Avenue (US Rt. 11).

The final plat proposes 9 single-family lots, on approximately 3.31 acres, to be served by public water and sewer.

Monique Boots read the description and project notes.
Trevor Lloyd was present representing the project.

Public Comment: Robert Wickham, resident on Briarcrest Drive, stated he was at the last meeting and spoke about his issues. He stated May 19 was the last meeting where the issues were discussed and it took 3 weeks for the first course of action to happen. He stated that was removing the black erosion barriers from behind some of the properties. He stated the week of June 24-25 there was 95-105 degree weather and the builder decided to put down soil with some seed with no watering system. He stated there were some minimal grass growth, but it is not a lot of impact on the stagnant water. He stated on July 2nd the new posting was placed on the property. He stated it was not until July 17 that a company came out and stated cleaning the culverts. He stated it took 2 months for the builder to take action to clean the culverts and 4 days for the company to clean the 2 areas. He stated he believes this was a lack of action and but builder is only doing things necessary for the request for consideration. He stated some issues they wanted to address would include the culverts that still have large piles of grass and trees that have grown in the area, and a 50-foot length of stagnant water that is 2 inches deep. He asked if that is still on the plan to be fixed and what will be the movement forward. He asked about the management company because they have not been contacted or been met with about how the culverts

will be maintained. He stated he met with Zach and Chase, from the Stormwater District, on July 15 to go over the stormwater report to go over the areas that need to be improved. He stated Zach mentioned there needs to be 70% coverage of grass. He stated the houses were seeded and hayed, but the new houses have been sod and have full yards that looks nice. He stated there are some properties in the development that still do not have any grass and the yard is just shale from erosion. He stated that HOA that the builder put into place had many rules, one of which was fencing. He stated the HOA rules state nothing over a 4-foot fence, however 3 of the new houses were provided with a 6-foot fence, which is in breach of the contract the rest of the neighborhood had to sign. He stated he does not have issues with it, but he does not understand why the rules were set in place for the builder to go against them.

The Public Hearing was closed.

Trevor Lloyd stated that at the last meeting there were concerns that needed to be addressed. He stated that after everything was assessed, the roadside ditches were seeded and grass is growing. He stated there were some items from MS4 that were addressed, and most recently they were graded A for erosion and sediment controls. He stated that recently the ditches on Briarcrest (showed pictures) was cleaned. He stated he also added the letter from the management company that is taking over the HOA that was effective as of July 1. He stated he is not privy to exactly when the notifications will be received, but he does know that it has been established. He stated that ILA properties feels that they have fulfilled their obligations and they request approval of Phase 3 Final Plat.

Mike Bush asked about the 70% stabilization and asked if that issue will come back at the time of bond reduction.

Trevor Lloyd answered that once a bond reduction is requested the developer would request a notice of termination or an area of reduction from DEP and they would issue it and it would be required for a bond reduction.

Doug Smith stated that DEP has indicated that the 70% has been established.

Mike Bush asked if it was and now is not.

Doug Smith stated that has happened, but he does not know the case right now. He stated he does not think it is bad.

Mike Bush asked if there is a muddy mess up stream.

Doug Smith stated that they cannot touch the basin until the new area is completed and the wet ponds will have to stay wet until it is complete.

Trevor Lloyd stated that they are not applying for a bond reduction right now.

Doug Smith stated that they looked at the roadside ditches and the remaining drainage issues. He stated that the bond is still being held and no reduction has been requested.

Trevor Lloyd stated that they will be doing as-builts, but they cannot until phase 3 is stabilized.

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

ACTION TAKEN: The motion was made by Dan Gantt and seconded by Mike Bush to approve the request for reconsideration, thus approving the Phase 3 Final Plat, contingent upon receipt of surety for \$60,699.60. Plat to be released upon receipt of surety and Developer's Agreement. Call For question. The motion carried unanimously.

REQUEST FOR FINAL PLAT APPROVAL

b. Bellwoode Section 3, Phase 2, File# 2505-136 tied to 21-02

The property is located on Stormfield Drive West in the Bellwoode Subdivision, approximately 600' south of Plymouth Drive and Southeast of Shepherdstown Road (WV Rt. 45).

The project proposes 4 residential lots on 4.9 acres, to be served by well/septic.

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

Public Comment: Roger Johnson stated that the existing pond has come back in his name. He stated that Brian Smith no longer owns the pond. He stated that he has requested Mr. Smith to get it taken care of and he stated that Mr. Smith won't do it. He stated he does not know why the pond is in his name. He stated it is around \$1,000 to get it back in his name.

Dan Gantt stated that it might be property taxes.

Mr. Johnson stated that the lots being created, the water will go into the pond. He stated the only thing that goes into the other pond is from the road. He stated rock dams were put in, but they are not there anymore. He asked how the 3 lots were skipped and there is no bond on the lots.

Anthony Delligatti stated he can talk with him.

Mr. Johnson stated that Mr. Smith hasn't done any of the DEP work such as, silt fencing and rock dams. He stated that Fox has not been out to survey the property.

Steve Cvijanovich stated the reason they are there is for a final plat for lots 37 and 39-41. He stated the existing stormwater pond was platted via plat cabinet 17 and slide 150-151. He says it has been platted and clearly states that lot 38 is intended to be a stormwater management pond. He stated he can't imagine that a stormwater management lot be created that is contiguous to lot 27 and 39 if it wouldn't be the purpose for providing stormwater control for the lots that are contiguous to it. He stated he does not have the history in regards to the comments about the lack of sediment controls, but their plat is in general conformance with the approved preliminary plan and for the community. He stated that the statement could not be placed on the plat if it was not true. He stated that in order for the seal to be on the plat, the survey work does have to be done.

Doug Smith stated that the county holds a letter of credit for Mr. Smith for \$371,100.00. He stated that covers all of the work that has been done out there, and it includes the extra lots. He stated when the complaints were received, he has stormwater inspectors go out on July 9th and July 17th. He stated the report has pictures to show the silt fencing and there were only minor issues, but nothing that he is not used to seeing on every other report. He stated the bond will be adjusted another \$28,000. He stated while working with Mr. Smith and Fox the area is already complete, the roadway is done, and the ditches are complete. He stated a lot of it can be pulled out of the Bond and given back.

ACTION TAKEN: The motion was made Tim Lewis and seconded by John Hardy 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 receipt of surety in the amount of \$28,560.00. Plat to be released upon receipt of surety. Call for question. The motion carried unanimously.

c. Southbrook Section 2, Phase 7A, Lots 146-161, File# 2503-085 tied to 2407-204 and 2205-136

The site is on Shiley Road (Cr 34/2) 0.3 miles north of Hatchery Road (CR 11/8).

The project proposes 16 residential lots on 1.13 acres, to be served by public water and sewer.

Monique Boots read the description and project notes.
Mark McDonald was present representing the project.

There were no comments from the public.

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

ACTION TAKEN: The motion was made by Mike Bush and seconded by Eric Goff to approve the Final Plat contingent upon receipt of surety in the amount of \$123,000.00 Plat to be released upon receipt of surety signed Developer Agreement. Call for question. The motion carried unanimously.

REQUEST FOR CONCEPT PLAN ADVANCEMENT

d. Hatchery Road Substation, File# 2505-157

The site is located on the north side of Sulphur Springs Road, approximately 2.26 miles east of SR 51.

The project proposes a substation on 7.25 acres.

Monique Boots read the description and project notes.

Josh Krebs was present representing the project.

There were no comments from the public.

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

ACTION TAKEN: The motion was made by Dan Gantt and seconded by Mike Bush to approve the advancement of the Concept Plan to the Detailed Site Plan stage. Call For question. The motion carried unanimously.

e. Long John Silvers, File# 2409-286

The site is the existing Long John Silver's location at 2035 Edwin Miller Boulevard.

The developer is proposing the demolition of the existing restaurant and construction of a new 2,220 sq. ft. Long John Silver's restaurant.

Monique Boots read the description and project notes.

Dave Meuse was present representing the project.

There were no comments from the public.

Linda Barnhart asked the square footage of the existing building is.

Dave Meuse answered it will be the same square footage.

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

ACTION TAKEN: The motion was made by Mike Bush and seconded by Eric Goff to approve the advancement of the Concept Plan to the Detailed Site Plan stage. Call For question. The motion carried unanimously.

f. Cardinal Pointe – Section 8, File# 2505-166

The site is located along the west side of Saint Andrews Drive (WV Rt. 3/1) and contiguous to the existing Cardinal Pointe community.

The developer is proposing 442 residential lots (184 single family, 72 villas, and 186 townhouse) on approximately 128 acres, to be served by public water and sewer.

Monique Boots read the description and project notes.

Steve Cvijanovich was present representing the project.

Dan Gantt recused himself from the project due to conflict of interest and exited the room.

Public Comment: Robert Fitzpatrick, resident on Otero Lane, stated he purchased a lot from Ryan homes in August after looking at many developments in the panhandle. He stated the lot was sold to him with a promise that nothing will be built behind him. He stated he paid extra for the lot because of that reason. He stated the only reason he picked the location was for the privacy. He asked how the Ryan Homes got away with promising him the premium lot for \$10,000 and that nothing would be built behind him, but not there are lots going behind him.

John Hardy asked the definition of the premium lot.

Mr. Fitzpatrick read that it would back up to all farmland. He stated he would have never built there if he knew there would be homes behind him.

John Hardy asked if he was told that the property was in farmland protection.

Mr. Fitzpatrick stated he was told that the farmer would never sell his land and it will not be built on. He stated he paid the \$10,000 premium, and he was happy with his decision until he heard about the new houses being build behind him 3 months after he closed. He stated is it disheartening moving from Rhode Island to be with his daughter and hoping for some privacy.

John Hardy stated he understands why he is upset; unfortunately the Commission cannot do anything about the issue. He stated the people who sold the property would be at fault.

Linda Barnhart stated she believes the recourse would be with Ryan Homes, in her opinion.

Anthony Delligatti stated he should seek legal counsel.

Gregory Hutchins, resident on Perspective Place, asked about the St. Andrews drive/ Hammonds Mill intersection. He stated it works fine now, but with adding more traffic, it will get interesting. He stated that the intersection may be a civil war site. He asked that the intersection be safe in the future.

John Hardy stated that the intersection is one of 5 intersections that the County Commission is working with the Department of Highways and the Governor's office to come up with a solution. He stated that they understand the growth that will be in that area and the intersection is strange.

Joe Newcomer, resident on Porchlight Lane, asked why Dan Gantt recused himself. He stated he believes it should be public knowledge.

Linda Barnhart answered that he will have to ask him the reason.

Joe Newcomer stated that Mrs. Barnhart gave him permission to leave.

Linda Barnhart stated she did give him permission to leave due to conflict of interest.

Joe Newcomer asked if they could bring him in to ask what the conflict was.

John Hardy stated Mr. Gantt recused himself due to a conflict of interest. He stated that the Planning Commission are volunteers and have lives outside of the meetings and Mr. Gantt is he is in the excavating business. He stated he did the correct thing to recuse himself from the project.

Joe Newcomer stated he wants to know why.

John Hardy stated Mr. Gantt is in the business and he may have had prior knowledge or future knowledge of something that may go on in that project. Mr. Hardy stated that he recused himself and he does not need to do into detail why.

Pamela Brenes Lamboy, resident on Otero Lane, asked if there are any plans for schools. She stated that the neighborhood has many children and the local schools are already ripping at the seams. She asked if there are any future plans for additional schools. She stated it is scary that all these family subdivisions are coming in, but there are no new schools.

Linda Barnhart stated that the Planning Commission cannot tell the school board what they need to do. She stated there is a letter from Mr. Schooley stating that there is an analysis and Mr. Henrys response. She stated there are additional schools being planned, but she cannot say when they will be built because the Planning Commission does not have that control.

Pamela Brenes Lamboy asked if there is a location publicly to see where the schools are possibly being build.

Mrs. Barnhart answered the Board of Education's website.

Pamela Brenes Lamboy asked if the project will still be approved even though the Commission does not know when the schools will be build.

John Hardy stated that West Virginia counties are not responsible for schools or roads. He stated that the schools and roads are ran at the state level and the counties are in charge of the police, fire, EMS, building codes. He stated the schools have their own state entity. He stated their money is generated through taxes and is not implemented through the county. He stated there was a bond recently passed and impact fee's will go in effect that will help the School Board pay for new schools in the county. He stated there was quick substantial growth in the area and everyone is trying to play catch up. He stated that the school board are aware of the projects and they are aware that schools need to be built. He stated there is a new elementary school in Marlowe and talks of a new high school being built in the next couple of years.

Steve Cvijanovich stated that Panhandle Homes of Berkeley County has not control over Ryan Homes and what they may or may have not told the potential buyer. He stated he brought sheets from the traffic study that show the recommendation that was taken from the report. He stated it talks about making a contribution to DOH for further study and improvements through the 901/St. Andrews Drive intersection. He stated that the traffic study that is currently under review is proposing a round about at the location to help the traffic congestion. He stated the civil war site, he researched it and he is not sure if it is a site or just an area where an activity has occurred.

Allen Henry stated that he owned that area and the plaque was donated by Walmart and the land was donated, and if it has to be removed for the roundabout it wasn't an actual site, but just a place to put the plaque.

John Hardy stated Hokes Run park would be a perfect place to relocate the plaque.

Steve Cvijanovich continued that he is understanding that there is a new elementary and a new intermediate school proposed in Marlow.

Doug Smith stated 2028.

Steve Cvijanovich stated the initial correspondence from the Board of Education stated "significant impact" but that was questioned and the BOE came back differently from the first letter. He stated impact fee's will help schools being funded.

John Hardy stated that not all growth will have new children, or that they will go to public school. He stated there are a lot of different choices for parents to make right now. He stated more and more children are doing alternative schooling.

Mike Bush stated that the input of the BOE is critical to the Planning Commission and the reports and information of saturation of schools are essential with the Comprehensive Plan. He stated that progress is going well. He commended the developer being proactive to the matters and identifying that there is additional capacity for schools planned in the area. He also commended the developer for taking the bus traffic through the neighborhoods.

Linda Barnhart stated that the Board of Education has always been alerted with every proposed subdivision and only in the last year have they gotten a response. She stated this is encouraging.

ACTION TAKEN: The motion was made by Eric Goff and seconded by Mike Bush 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 Concept Plan to the Detailed Site Plan stage. Call For question. The motion carried unanimously.

Dan Gantt returned to the meeting.

7. PRELIMINARY PLAN APPROVAL

a. Ridge Road Water Tank, File# 2412-386

The site is located along the east side of Ridge Road South (WV Rt. 4), approximately 1.10 miles south of

Hedgesville Road (WV Rt. 9).

The developer is proposing a freestanding water tank on 1.25 acres.

Monique Boots read the description and project notes.

Steve Cvijanovich was present representing the project.

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

8. REQUEST FOR FINAL PLAT DETERMINATION

a. Estates of Tuscarora, Phase 3, Lots 25 & 27-60, File #2506-195

The site is located on the right side of Thatcher Road (WV Rt. 16), approximately 500' north of the intersection with Tuscarora Pike (WV Rt. 15).

The final plat proposes the development of 35 single-family lots on approximately 57.48 acres, to be served by private well and septic.

Monique Boots read the description and project notes.

Steve Cvijanovich was present representing the project.

ACTION TAKEN: The motion was made by Dan Gantt 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 August 18, 2025 Planning Commission Meeting. Call for question. The motion carried unanimously.

9. STAFF/ COUNSEL DISCUSSION/ACTION/ MOTION

- a.** Comprehensive Plan Update- Brian Ross stated they are working on the rough draft for Chapters 1 and 2.

10. ADJOURNMENT

ACTION TAKEN: The motion was made by Eric Goff and seconded by Dan Gantt to adjourn the meeting at 7:24pm. Call for question. The motion carried unanimously.

Respectfully submitted,
Sarah Sandri
Planner I