

## THE BERKELEY COUNTY PLANNING COMMISSION MINUTES

The Berkeley County Planning Commission met in a regular session on October 17, 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, Nic Diehl, Tim Lewis (on call), Eddie Gochenour, and Eric Goff
- b. MEMBERS ABSENT: Vickana Norton and Dan Gantt
- c. STAFF: Laura Hoffmaster, Senior Planner; Monique Boots, Planner II; Sarah Sandri, Administrative Assistant; Doug Smith, County Engineer; Jeff Mauzy, Assistant 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 Nic Diehl to approve the October 3, 2022 meeting minutes. Call for question. The motion carried unanimously.

### 6. PUBLIC HEARINGS

#### REQUEST FOR MAJOR PLAN CHANGE APPROVAL

#### a. Martinsburg Seventh-Day Adventist Church, File# 2110-398

The property is located on the west side of Delmar Orchard Road (WV Rt. 45/7), approximately 1,300 feet south of its intersection with Tuscarora Pike (WV Rt. 15).

The Major Plan Change proposes the construction of a private elementary school building and associated infrastructure (including water and sewer service lines), a drop-off area, parking, a playground, and a retaining wall.

Laura Hoffmaster read the description and project notes.

Clint Rock was present representing the project.

There were no comments from the public.

**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 Eddie Gochenour and seconded by Eric Goff to approve the Major Plan Change. Call For question. The motion carried unanimously.

#### b. Countertop Solutions – Lot 3A, File# 2204-112

The property is located at 286 Langston Boulevard, in the Falling Waters Industrial Park.

The Major Plan Change proposes the addition of a 5,000 square foot accessory building, on a 3 acre parcel which is currently served by public water and sewer.

Laura Hoffmaster read the description and project notes.  
Clink Rock 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 Major Plan Change. Call For question. The motion carried unanimously.

#### **REQUEST FOR WAIVER**

**c. Mobley, File# 2209-270**

The property is located at the intersection of Middleway Pike (WV Rt. 51) and Pedal Car Drive (WV Sec. Rt. 51/6).

The developer is proposing the creation of a 0.3146 acre parcel and a 0.4622 acre parcel. The existing parcel is currently served by public water and sewer.

Laura Hoffmaster read the description and project notes.  
Andy DiMagno was present representing the project.

There were no comments from the public.

Andy DiMagno stated that if Stormwater management was not triggered the waiver would be approved. He stated now it is totally different. He stated the project is down from the Sheetz and there is an old house in the front with a barber shop and a car lot in the back. He stated that the owners want to sell and they want to cut a line across between the two businesses so it can be sold.

Linda Barnhart asked why he thought it would be approved.

Mr. DiMagno stated that he talked to Laura Hoffmaster and she did not remember the conversation. He stated he talked to Doug Smith and he was told as long as Stormwater was not required and nothing was being added that it would be approved.

Laura Hoffmaster stated that staff does not say any waiver will be approved. She stated that they might recommend approval or denial of the waiver to the Planning Commission. She stated that she did not talk to Andy on the phone about this issue, but she does have an email conversation that states if Stormwater management is triggered he would have to go through the full site plan process.

Doug Smith stated there is no way that he would have said this would have been approved because he would ask for other things for the commercial lots, like parking, and have the parcels be compliant with the 2009 Subdivision Ordinance. He stated that cannot be done through the Preliminary/Final process and has to be done through the Sketch.

Laura Hoffmaster stated that the 2016 Stormwater Management Ordinance cannot be ignored with any plat that comes into the office for review.

Andy DiMagno stated that Mr. Mobley came in with another surveyor and was going to try to do some additional work to the property, which would have triggered a site plan. He stated he told Mr. Mobley he cannot do anything extra on the property. He stated he spoke with staff and was told if nothing is being done that he would be okay.

Laura Hoffmaster stated that she disagrees.

Doug Smith stated that as long as you do not try to subdivide the property and it is left the way it is, there is nothing technically that could be done. He stated when the project comes in for any review to change the parcel, staff can ask the applicant to come into compliance. .

Laura Hoffmaster stated that they cannot review a project and only apply certain sections of the Ordinance. She stated that the project has five times as much impervious coverage that triggers Stormwater management, and MS4 would have issues if the parcel was subdivided without any type of water quality.

Doug Smith stated the parcel is in the Inwood flood Hazard Area and there are extra controls that would need to be in place. He stated that has been in place since 2009.

Linda Barnhart asked about the Inwood Flood Hazard Area.

Andy DiMugno stated that to his knowledge there has not been a water problem at the site.

Doug Smith stated that it is not the site they are worried about.

Laura Hoffmaster stated that when Mr. Mobley came in with Chuck Sager to meet with her and Doug Mr. Mobley wanted to do a small addition onto the building, which was over existing impervious area. She stated that the parcel has over 5,000 square feet of impervious coverage and that it would trigger a site plan. She stated that they told Mr. Mobley that if he does not do the addition and he subdivides the property he would have to do some type of Stormwater management control. She stated that Mr. Mobley met with Andy and she discussed in the email that if Stormwater management is triggered, a full site plan would be required.

Doug Smith stated that subdividing the parcel is improving the property and he would ask for it to come into compliance with the Ordinance. He stated that there is no way he can waive Stormwater quality.

Linda Barnhart asked if they waiver is not granted they would just have to go through the site plan process.

Doug Smith answered that is correct.

**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 deny the waiver to Section 305.4.1 of the Berkeley County Subdivision Ordinance (2009) requiring a 2 acre minimum lot size, in order to proceed through the Preliminary/Final process. Call for question. The motion carried unanimously.

## **7. PRELIMINARY/FINAL PLAT APPROVAL**

### **a. Jerin, File# 2207-213**

The project is located on Tice Road (WV Sec. Rt. 1/5), approximately 1 mile from Grade Road (WV Rt. 1).

The developer is proposing the creation of a 2.16 acre parcel (Lot B-1) and a 2.86 acre parcel (Lot B-2), to be served by private well and septic.

Monique Boots read the description and project notes.

Bob White was present representing the project.

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

### **b. Robert Hornbaker, File# 2208-245**

The project is located on Providence Church Road (WV County Route 25), approximately 0.56 miles from WV County Route 23.

The developer is proposing a 5.83 acre parcel for a single family detached residence, to be served by private well and septic.

Monique Boots read the description and project notes.

Andy DiMagno was present representing the project.

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

**8. STAFF/ COUNSEL DISCUSSION/ACTION/ MOTION**

Staff and Planning Commission Members discussed what the next steps would be to get the new ordinance rolled out.

**9. ADJOURNMENT**

**ACTION TAKEN:** The motion was made by Eric Goff and seconded by Nic Diehl to adjourn the meeting at 6:22 PM. Call for question. The motion carried unanimously.

Respectfully submitted,  
Sarah Sandri  
Administrative Assistant

**Berkeley County Planning Commission Meeting Minutes, October 17, 2022.**