



## **BERKELEY COUNTY PLANNING COMMISSION**

400 West Stephen Street - Suite 203, Martinsburg, WV 25401-3838

Telephone: 304-264-1963, Fax: 304-262-3127

Web Page: [www.berkeleywv.org](http://www.berkeleywv.org)

### **Berkeley County Planning Commission Agenda**

**April 3, 2017 @ 6:00 pm**

1. CALL TO ORDER
2. ROLL CALL
3. APPROVAL OF THE AGENDA
4. SUNSHINE LAW SPEAKERS
5. APPROVAL OF MEETING MINUTES
6. PUBLIC HEARINGS
  - a. Northwood Ranch Subdivision, Lot E-3 & Lot E-3A- #009-17
  - b. Shickle Lots Final Plat Approval (Public Hearing)- #008-16
7. RE-PLAT APPROVAL
  - a. Morning Dove Estates, Phase 1 Lots C1-C4 #047-16
8. REQUEST FOR CONSIDERATION
9. STAFF/COUNSEL DISCUSSION/ACTION/MOTION
10. ADJOURNMENT

**\*\*The Planning Commission reserves the right to re-arrange items on the agenda due to time constraints of the public or Commission\*\***



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### PUBLIC HEARING STAFF REPORT REQUEST FOR WAIVER April 3, 2017

**Project:** Northwood Ranch Subdivision, Lot E-3 & Lot E-3A

**File #:** 009-17

**Developer:** R&D Investments  
605 Baltimore St  
Martinsburg, WV 25401

**Surveyor:** Roberts Land Surveying  
2068 Palmer Rd.  
Hedgesville, WV 25427

**District, Tax Map, & Parcel:** Hedgesville District, Map 14, Parcel 2.3

**Location:** The site is located west side of Conservation Drive 3000' North of intersection of Camp Frame Road and Conservation Drive in the Hedgesville Tax District.

**Project Description:** The project proposes a waiver to section 305.4.1 of the Berkeley County Subdivision Ordinance.

APPROVAL LETTERS	DATE RECEIVED
Berkeley County Health Department (Well & Septic)	
Berkeley County Public Service Water District (Water Availability)	
State Health Department (Water)	
State Health Department (Sewer)	
Department of Highways (Entrance Permit) Letter Received	
Central Dispatch (Road names) approved	
GPP Permit Application	
NPDES Permit Application	
*Traffic Study	
*School Impact Analysis	
Appendix C—Environmental Impact Checklist	

MEETINGS & SUBMISSIONS	DATE RECEIVED
Waiver Requests	
Waiver Requested	3/3/17
Waiver Request Advertised	3/13/17
Waiver Denied	
Request for Consideration	
Request for Consideration Submitted	

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Request for Consideration Advertised	
Request for Consideration Accepted/Denied	
Preliminary/Final Plat	
Preliminary/Final Plat Submitted	
1 <sup>st</sup> Review Comments	
Preliminary/Final Plat Re-Submitted	
Preliminary/Final Plat Approval	

**Waivers/Exceptions:**

The project proposes a waiver to section 305.4.1 which requires a minimum lot size of 2 acres, in order to subdivide a lot using the simultaneous Preliminary/Final Plat Process.

**Section 305.4 “Procedure-Simultaneous Preliminary/Final Plan”** states that *where lots are greater than two (2) acres in size and have frontage on a WVDOH road, and no improvements are needed, the developer may submit a combined Preliminary/Final Plan to be forwarded to the Planning Commission.*

The proposed subdivision includes the creation of one lot and one remainder parcel. The lots are 1.48 (New lot) and 1.49 acre (remainder).

The requirements to be granted a waiver, per section 1203(A) of the Berkeley County Subdivision Ordinance, are as follows:

**Section 1203(A)(1):** *The conditions requiring the waiver are not the result of any self directed or deliberate physical action taken by the applicant which, had it not been taken, would have alleviated the need for the waiver request.*

It appears that the requested waiver does not meet condition #1. The proposed subdivision could follow the prescribed procedure for Sketch, Preliminary, and Final Plat, as outlined in the 2009 Berkeley County Subdivision Ordinance. It appears that the subdivision could meet the requirements, under the existing procedure for subdivision.

**Section 1203(A)(2):** *The waiver will not be contrary to, the public interest, health, safety, and welfare given the evidence presented.*

As aforementioned, the plat appears to comply with the 2009 Subdivision Ordinance; therefore, it would not be contrary to the public interest.

**Section 1203(A)(3):** *Consistency and fairness in applying the Ordinance shall not be jeopardized or compromised.*

Section 305.4.1 “Procedure for Simultaneous Preliminary/Final Plat” exists as an exception from the full major subdivision procedure, as

written. However to qualify for this simultaneous review, three (3) parameters have been set: lots must greater than two (2) acres in size, with frontage on a WVDOH road, and no improvements are needed. To begin to waive the directives that allow this process to exist will compromise fairness and consistency.

That being said, waivers to section 305.4.1 have been granted in the past for projects where all improvements were in existence, such as: Board of Child Care (#036-12), Thurston Subdivision (#005-13), David Wageley Subdivision (#022-12), and most recently Secrist Lots (#023-16), Lots N2A and N2B (#027-16), and Cole McCullough (#045-16) and Mary Donnellan (#049-16). However, many who did not and could not meet the qualifications for simultaneous Preliminary/Final Plat review were forced to take the alternate route of the standard procedure for Sketch, Preliminary, and Final Plat approvals.

**Project Notes:**

Mr. Michael Roberts has provided a justification which is attached for review.

**Staff Recommendation:**

Staff takes no issue with the plan proposed, as prepared by Mr. Michael Roberts, but rather with the mechanism for approval that the developer is wishing to employ. The plan could be approved through the standard approval process, but this section of the ordinance seems to be repeatedly utilized for the reduction of cost, and convenience of time. It is the opinion of staff that, the application does not meet the requirements in Section 1203(A)(1) and 1203(A)(3) to be granted a waiver. Therefore, staff recommends denial of the proposed waiver, and encourages the developer to submit a sketch plan for review.

Respectfully Submitted,

The Planning Department

Attachments:

Waiver Justification, provided by Michael Roberts, 3/3/17



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## STAFF REPORT PUBLIC HEARING FINAL PLAT APPROVAL April 3, 2017

**Project:** Shickle Lots Subdivision

**File #:** #008-16

**Developer:** Mr. Justin Yates  
5623 Dry Run Rd  
Hedgesville, WV 25427

**Surveyor:** Mr. Greg Yebernetsky  
1211 Palmer Rd.  
Hedgesville, WV 25427

**District, Tax Map & Parcel #:** Mill Creek Tax District, Map 6, and Parcel 61.89.

**Location:** The subject property is located approximately 0.1 miles south of the intersection of Rt. 51/7 (Sulphur Springs Rd.)

**Project Description:** The project proposes two (2) single family residential lots on approximately 1.05 acres.

**Administrative History:**

APPROVAL LETTERS	DATE RECEIVED
Berkeley County Health Department (Well and Septic)	
Berkeley County Public Service Water District (Water Availability)	3/4/2016
Berkeley County Public Service Sewer District (Sewer Availability)	3/4/2016
State Health Department (Water)	
State Health Department (Sewer)	
Department of Highways (Entrance Permit) Letter Received	10/3/2016
Central Dispatch (Road Names) approved	
GPP Permit Application	
NPDES Permit Application	
*Traffic Study	
*School Impact Analysis	
Appendix C – Environmental Impact Checklist	

<b>MEETINGS &amp; SUBMISSIONS</b>	<b>DATE RECEIVED</b>
<b>Waiver Requests</b>	
Waiver Requested	N/A
Waiver Request Advertised	
Waiver Granted	
<b>Sketch Plan</b>	
Sketch Plan Submitted	3/7/2016
1 <sup>st</sup> Review Comments	3/8/2016-P
Sketch Plan Re-Submitted	3/18/2016
Sketch Plan Public Hearing Advertised	4/4/2016
Sketch Plan Advancement Meeting / Approved	4/18/2016
<b>Preliminary Plan</b>	
Preliminary Plan Submitted	8/31/2016
1 <sup>st</sup> Review Comments	P- 9/19/2016 E- 10/3/2016
Preliminary Plan Re-Submitted	10/26/2016
Preliminary Plan Approved	12/5/2016
<b>Final Plat</b>	
Final Plat Submitted	1/4/2017
Planning Approval	1/24/2017
Engineering Approval	2/9/2017
Final Plat Determination Meeting	2/21/2017
Final Plat Public Hearing	4/3/2017
Final Plat Approval	

**Waivers/ Exceptions:**

No waivers or exceptions have been proposed with this subdivision.

**Project Notes:**

The project proposes two (2) single family residential lots on approximately 1.05 acres. The application materials state that this project will be serviced by public water and sewer.

**Engineer Report:**

The County Engineer issued her letter on February 9, 2017 that the plan complies with the final plat requirements of the 2009 Subdivision Regulations.

**Staff Recommendation:**

The final plat meets the requirements of the 2009 Subdivision Ordinance; therefore Staff recommends final plat approval.

Respectfully Submitted,

The Planning Department

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### STAFF REPORT RE-PLAT APPROVAL April 3, 2017

**Project:** Morning Dove Estates -Phase 1, Lots C1-C4 Re-plat

**File #:** 047-16 (cross referenced with 046-03)

**Developer:** DR Acquisitions LLC  
10212 Governor Lane, Suite 1006  
Williamsport, MD 21795

**Engineer:** Gordon  
301 N Mildred Street, Suite 1  
Charles Town, WV 25414

**District, Tax Map & Parcel #:** Mill Creek District, Map 10P, Parcel 43

**Location:** The site is located Southwest of the Giles Mill Rd./Bray Dr. intersection, approximately 1.5 miles east of Giles Mill Rd/Rt. 11 intersection in the Mill Creek Tax District.

**Project Description:** The project comprises four (4) residential lots on 1.12 acres.

**Administrative History:**

Approval Letters (Phase 1/File 46-03/1975 Regulations)	Date Received
Berkeley County Health Department (Wells and Septic)	N/A
Berkeley County Public Service Water District (Water Availability)	11/03/04
Berkeley County Public Service Sewer District (Sewer Availability)	06/09/05/Revised 03/17/06
State Health Department (Water)	11/03/04
State Health Department (Sewer)	11/03/04
Department of Highways (Entrance Permit)	11/03/04 **Updated 1/4/2017
Central Dispatch (Road Names)	11/13/03
GPP Permit Application	11/03/04
NPDES Permit Application	11/03/04
*Traffic Study	N/A
*School Impact Analysis	N/A
<b>Meetings &amp; Submissions</b>	
	<b>Date</b>
Pre-Application STAC Meeting	09/03/03
Preliminary Plat Submitted	11/03/04
1st Review Comments	
Preliminary Plat Resubmitted	

Preliminary Plat Resubmitted	
Advertised	01/22/05
Public Hearing (Preliminary Plat/Site Plan Approval)	02/22/05
Final Plat/Site Plan Approval	08/01/05 & 07/10/06
Bond Reduction	

<b>MEETINGS &amp; SUBMISSIONS</b>	<b>DATE</b>
<b>Waiver Requests</b>	
Waiver Requested	N/A
Waiver Request Advertised	
Waiver Granted	
<b>Phase 1-Proposed Major Plan Change (Lots C1-C4) (New Preliminary)</b>	
Plan Change Submitted	11/29/2016
Planning Review Comments	12/6/2016
Engineering Completion	12/22/2016
Resubmission	1/12/2017
Planning Complete	1/18/2017
Public Hearing Advertised	1/30/2017
Plan Change Advancement Approval	2/21/2017
<b>Re-Plat Phase 1, Lots C1-C4</b>	
Re-Plat Submitted	1/25/2017
Planning 1 <sup>st</sup> Review Comments	2/21/2017
Engineering 1 <sup>st</sup> Review Comments	2/24/2017
Re-Plat Re-Submitted	3/8/2017
Planning Conditional Completion	3/13/2017
Engineering Approval	3/22/2017
Planning Commission Re-Plat Approval	4/3/2017
Bond Reduction	

<b>Phase 2-Sketch Plan (Approved)</b>	
Sketch Plan Submitted	10/31/2016
Engineering Completion	11/14/2016
Planning Review Comments	11/10/2016
Sketch Plan Re-Submitted	11/17/2016
Planning Complete	12/5/2016
Sketch Plan Public Hearing Advertised	12/26/2016
Sketch Plan Advancement	1/3/2017
<b>Preliminary Plan</b>	
Preliminary Plan Submitted	
1 <sup>st</sup> Review Comments	
Preliminary Plan Re-Submitted	
Preliminary Plan Advancement Meeting / Approved	
<b>Final Plat</b>	
Final Plat Submitted	
1 <sup>st</sup> Review Comments	
Final Plat Re-Submitted	

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Final Plat Determination Meeting	
Final Plat Public Hearing Advertised	
Final Plat Public Hearing	
Final Plat Approval	
Bond Reduction	

**Waivers/ Exceptions:**

No waivers or exceptions have been requested by the applicant.

**Project Notes:**

On February 21, 2017 a major plan change was approved. The plan change approved the conversion of one (1) commercial lot (1.12 acres) to four (4) residential lots.

The applicant is now requesting approval of the re-plat to record the new lots C1-C4 for Phase 1. The re-plat, if approved, will become the new final plat for Phase 1, Lots C1-C4.

Phase two, is currently under review with Berkeley County Planning, and proposes approximately two hundred (200) single family lots on 94.41 acres to be served by public water and sewer. The sketch plan was approved for Phase 2, on January 3, 2017.

**County Engineer:**

The Engineer issued a letter on March 22, 2017, stating that the re-plat meets the requirements of the 2009 Berkeley County Subdivision Ordinance. Therefore, the County Engineer recommends approval of the proposed re-plat.

**Staff Recommendation:**

The plat meets the requirements of the Subdivision Ordinance; therefore, Staff recommends **approval** of the proposed re-plat.

Respectfully Submitted,

The Planning Department

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