

A RESIDENTIAL CLUSTER SUBDIVISION

Developed by
Michael R. Shveda

Shepherdstown District
Jefferson County WV

Prepared for
The Jefferson County Planning Commission

Submitted for Planning
Commission Review
On November 27, 2007

Prepared by
Dewberry
Ranson WV

Shepherdstowne
Estates
COMMUNITY
IMPACT
STATEMENT

SUMMARY

Shepherdstowne Estates

The property is a proposed cluster subdivision that will conserve existing farm land while allowing the creation of ten cluster lots and a residue lot. The residue lot is to contain four family parcels. The residue lot will contain the existing residence and retain most of the existing farm fields. The property is located along Kearneysville Pike (WV 480), northeast of Ridge Road, WV 16 and across the street from the Morgana Subdivision. The cluster development is proposed to be next to the existing development of Ledgeelow Estates. The proposed development will continue the existing residential development around Shepherdstown. For information only we are noting that the four family parcels will be located at the end of the cluster. They are not a part of this request for review.

The intersection closest to the proposed entrance to the Subdivision is Ridge Road (WV 16) and the Kearneysville Pike (WV 480) located approximately 1600 feet west of the proposed entrance. The ten lots will be between 2 to 2.1 acres in size. The residue parcel contains most of the existing farm fields and over half of the wooded areas. It also contains a residence, detached garage and a storage building. The subdivision will consist of ten single family homes. The subdivision served by individual well and sewage disposal system will be accessed by a new road built to County standards. The road will consist of a 50 ft. wide right of way with an asphalt surface. A variance may be requested to maintain the existing drive to the existing house.

According to the tax map, the site proposed for the subdivision contains 100.86 acres. The deed indicates 100.66 acres. Approximately twenty-six percent of the parcel or 26.5 acres will be used to create the ten lot residential cluster subdivision. This includes 2.7 acres of proposed road dedication. Seventy-three and a half percent of the parcel or 74.2 acres will remain in agricultural use.

Children residing in the development will attend Shepherdstown Elementary School, Shepherdstown Middle School and Jefferson High School at Shenandoah Junction. The proposed development will have little impact upon existing roads due to its small size.

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In rear pocket:

Concept Plan for Residential Cluster Subdivision

General Description

1. Name, address of Owner/Developer

Owner & Developer:

Michael & Sarah Shveda
3759 Kearneysville Pike
Shepherdstown, WV 25443
Phone: 304 876-9220

2. Name, Address of Contact Person(s)

Michael Shveda
579 Kearneysville Pike
Shepherdstown, WV 25443
Phone: 304 876-9220

Annette van Hilst R. A.
Senior Land Planner
Dewberry
P.O. Box 35
Charles Town, West Virginia 25414
Tel: 304 725 4572 FAX: 304 725 6896

3. Tract Size, Shape, Location

The site proposed for the subdivision according to the tax map consists of two parcels on tax map 13. Parcel 1 has 100.61 acres and parcel 25.1 has 0.25 acres. Both are located in the Shepherdstown District.

The parcel is an irregular shaped polygon. The south-eastern boundary is Kearneysville Pike. It is incised by parcel 1.2, the Billmyer parcel (which is not a part of this submission). The parcel almost completely surrounds the Billmyer parcel. In fact, the parcel used to belong to the Billmyers until 2000. This is the residue of the original Billmyer parcel. Ledgelow Estates and Mecklenburg Heights back up to the eastern and northern boundary lines. The property extends east-northeast approximately 1800 ft. along Kearneysville Pike. The southwestern corner of the property is approximately 175 feet from the intersection of Ridge Road and Kearneysville Pike. The property is in the rural district. Agricultural uses are to the west of the site. Residential uses are to the north, east and south of the site.

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According to the Zoning Ordinance, the property can be developed in several ways as follows:

- Into 3 acre or larger single family residential lots with individual wells and septic tanks. One lot can be developed for every 15 acres of land area
- Into 40,000 sq. ft. to 3 acre single family residential lots with individual wells and septic tanks. One lot can be developed for every 10 acres of land area
- Any lot that was of record as of Oct. 5, 1988 may create 3 lots (including the residue) during any five year period.
- Transfers of land between parent and child are not subject to the requirement with regards to maximum number of lots as long as the lots meet subdivision requirements.

Below is a table explaining the development rights for the entire parcel. The cluster subdivision is marked in tan.

Table indicating Development Rights

Parcel No.	Acreage 1988 per tax map	Acreage per deed	No. Lots per Parcel in cluster subdivision (acreage /10)	No. Lots per Parcel in subdivision (acreage /15)	No. Lots allowed in any 5 year period (per ordinance)	Lots proposed
P1.	99.4 acres	100.6121	100.66/10= 10 lots	100.66/15= 6 lots	3 lots every five years	
P25. 1	.25 acres	.0516	0	0	0	
Total	99.65 acres	100.66 acres				10 and a residue (plus a possible 4 family lots)

Table Indicating Development Rights

In designing the subdivision, the developer took into account the existing terrain, woodlands and surrounding uses to determine that it would be best to develop this subdivision as a cluster type subdivision. A cluster subdivision will have a lesser impact by clustering the proposed lots in a smaller area between the existing farm complex and the existing residential development along the eastern and northern property boundaries and next to the residential growth zone around Shepherdstown. The strategy allows for more of the farmland area and existing woodlands to be preserved while clustering the proposed residential lots adjacent to the neighboring Ledgeelow Estates. This approach allows for the retention of the existing farm fields in the western portion of the site and more than half of the unmanaged woodland.

The intersection closest to the proposed entrance to the Subdivision is Ridge Road (WV 16) and the Kearneysville Pike (WV 480) located approximately 1600 feet west of the proposed entrance.

See Exhibit I for Site Location at page 50

Project Design

Shepherdstowne Estates property consists of ten residential cluster lots plus 1 residue lot containing the existing residence, garage and storage building. The residue lot may eventually contain 4 family lots and the existing residence. Calculations contained in this Community Impact Statement takes into account the above possibility.

The cluster lots are proposed in the north-eastern third of the parcel. The proposed two acre cluster lots are comparable to the existing residential development in the adjacent Ledgeelow Estates subdivision. The subdivision is to be developed as single family residential lots with individual wells and septic systems. A residue lot containing the existing residence, fields, and more than half of the unmanaged woodland is proposed for the south western portion of the site. The residue lot retains approximately 74.2 acres of the parcel in it existing agricultural use. 6 acres of the residue parcel will be used eventually to create four family lots.

Only one residential lot actually fronts onto the Kearneysville Pike. The proposed entrance is between this lot and one of the proposed storm water management areas on Kearneysville Pike northeast of Morgana Estates and the Billmyer's residence, parcel 1.2. In order to try to maintain the rural character of the Kearneysville Pike, the owner will strive to maintain as many of the trees as possible that are located along the Pike, taking into consideration the requirements of the Jefferson County Ordinances and the storm water management pond requirements.

This portion of the site backs up to Ledgeelow Estates. The subdivision will be accessed off of Kearneysville Pike by an asphalt road within a 50' right of way built to County standards ending in a cul de sac. After entering the eastern portion of the site, the proposed road will curve off to the west and terminate in a cul-de-sac behind the existing residence. The lots will be approximately two acres each. The family lots to be created from the residue lot will be accessed from the cul de sac.

Approximately 1680 linear feet of asphalt road and one 80' diameter cul de sacs will serve the residential subdivision. The 18' wide asphalt road is proposed (with 2' shoulders each side) within a fifty feet wide right of way. This will allow all road side ditches to be located within the right of way.

Storm water management will be provided on site in the ditches wherever possible and within two storm water management ponds located adjacent the northern and eastern boundaries. The exact design and location of the storm water management facilities will be determined at Preliminary Plat stage.

After creation of the subdivision, a 74.2 acre residue lot will be created. 68 plus acres will remain in agricultural use. The house, detached garage, storage building and the majority of the existing woodlands will remain. The existing access from Kearneysville Pike with its existing residence is to remain unchanged and will require a variance.

See the Concept Plan located in the rear pocket of the folder

Number, Approximate Size, Location of Lots

Ten residential cluster lots and one residue lot are created and are located in the north-eastern portion of the parcel. Each of the ten cluster lots in the subdivision will have an area between 2 to 2.1 acres. Two separate parcels are planned for the storm water management ponds, one containing 2.1 acres and one containing 1.4 acres. They will be dedicated to the Home-owner's Association. Road right of way to be dedicated totals 2.7 acres.

The residue lot located south and west of the subdivision will contain 74.2 acres. Future family parcels totaling 6 acres are shown for informational purposes only.

See the Concept Plan located in the rear pocket of the folder and Exhibit 11 at the last page.

6. Topography

The site has a rolling topography. Basically the site consists of a ridge running north to south, dissecting a third of the western portion of the site from the remaining two-thirds. The western portion drains toward the northwestern corner of the site. The middle portion of the site drains fairly equally towards the northern boundary and Ledge Low Estates and the southern boundary and Kearneysville Pike. North of parcel 1.2 (the Billmyer residence), the site again drains toward the north boundary. The eastern portion of the site drains toward the northeastern and southeastern corners of the parcel. No floodplain has been located onsite.

Site elevations along the western boundary drop from 505' to approximate 490' at the northeast corner of the parcel. The north/south ridge rises to 550+ feet. The low-points of the site are the northeastern and southeastern corners at approximately 472 feet above sea level.

In the area to be developed into the cluster subdivision, the majority of the slopes are four to nine percent. Steeper slopes of approximately twelve percent are located in the northeastern and southeastern corners of the site adjacent to the proposed storm water management ponds.

The residue lot consists of the western fields and the wooded middle portion of the site around the existing residence. The fields have average slopes of six to twelve percent. Along the western property line, slopes of fifteen to thirty-five percent are found sloping to a natural drainage swale. The wooded area surrounding the house has three to eight percent slopes.

See Exhibit 2 Topography at page 36

7. Soil and Drainage Characteristics

The soils found at the property are mostly of the Hagerstown series. Hagerstown soil is a deep well drained soil formed from weathered limestone. Permeability is moderate. These soils comprise over 53% of the site. There are 6 acres of Hagerstown silt loam in the western portion of the site which is currently a fallow field. It is to remain in agricultural use as a part of the residue lot. The western boundary of the site slopes steeply and consists of Hagerstown-Opequon-Rock outcrop complex. This area is also to remain undisturbed as part of the residue

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lot. Most of the wooded area in the middle and eastern portion of the site is Hagerstown-Rock outcrop complex totaling 45 acres. This complex is not considered suitable for cropland. Consequently, the ten lot cluster subdivision is planned for this area. Approximately 20 acres of the cluster lot development consists of Hagerstown-Rock outcrop complex.

The second most predominate soil is Ryder–Poplimento complex. It is prevalent over 27 acres in the western fields. A moderately deep to deep soil, it is appropriate for cropland and pasture. All of the Ryder-Poplimento complex will remain in agricultural use within the residue lot.

Fifteen acres of the property consists of very deep and well drained soil with moderately slow permeability from the Poplimento series. Almost half of the Poplimento soils are to remain in agricultural use in the residue lot.

Six percent or six acres of property is composed of Funkstown soil. All but approximately one acre is to remain in agricultural use. This soil is located in the swales of the northern farm fields. “It is a very deep, moderately well drained moderately permeable soil” which has “washed down from surrounding uplands which covers the underlying limestone residuum,” according to the U.S. Dept. of Agriculture Soil Conservation Service.

The following information is from the U.S. Dept. of Agriculture Soil Conservation Service website (Web Soil Survey, August 2007)

Map Unit Legend

Jefferson County, West Virginia (WV037)			
Map Unit Symbol	Map Unit Name	Acres in AOI	Percent of AOI
Fk	Funkstown silt loam	5.8	5.8%
HeB	Hagerstown silt loam, 3 to 8 percent slopes, very rocky	6.1	6.0%
HgE	Hagerstown-Opequon-Rock outcrop complex, 15 to 35 percent slopes	1.5	1.5%
HrC	Hagerstown-Rock outcrop complex, 8 to 15 percent slopes	45.5	45.1%
PmB	Poplimento silt loam, 3 to 8 percent slopes	1.3	1.3%
PpB	Poplimento silt loam, 3 to 8 percent slopes, very rocky	13.4	13.3%
PrC	Poplimento-Rock outcrop complex, 8 to 15 percent slopes	0.3	0.3%
RrC	Ryder-Poplimento complex, 8 to 15 percent slopes, very rocky	27.0	26.8%
Totals for Area of Interest (AOI)		100.9	100.0%

FUNKSTOWN SERIES

The Funkstown series consists of very deep, moderately well drained, moderately permeable soils. They have formed from colluvial and alluvial material washed down from surrounding uplands which covers the underlying limestone residuum. They occur on upland drainageways and head slopes. Slopes range from 0 to 3 percent. Mean annual temperature is 50 to 54 degrees F, and mean annual precipitation is about 38 to 50 inches.

RANGE IN CHARACTERISTICS: *Solum thickness ranges from 40 to 60 inches. The A horizon ranges from 8 to 15 inches thick, but can range up to 22 inches thick in some places. Lithic contact is greater than 72 inches. Depth to underlying residuum ranges from 25 to 60 inches. Depth to the top of the argillic is above 40 inches. Rock fragments composed of chert, quartzitic sandstone, and limestone gravel range from 0 to 25 percent in the Ap horizon, and 10 to 60 percent in individual subhorizons of the Bt and Bw horizon, but averages to be less than 35 percent. The 2Bt and 2C horizon has rock fragments of predominantly limestone which range from 5 to 25 percent. The reaction ranges from moderately acid to slightly alkaline throughout the profile.*

The Ap horizon has hue of 7.5YR, through 10YR value of 3 through 5, and chroma of 3 through 6. Texture in the fine earth fraction is silt loam, loam, or silty clay loam. Reaction ranges from slightly acid to slightly alkaline.

The BE horizon has hue of 7.5YR through 10YR, value of 3 through 6, and chroma of 3 through 6. Texture in the fine earth fraction is silt loam, loam, or silty clay loam. Reaction ranges from slightly acid to neutral.

The Bt and Bw horizon has hue of 5YR through 10YR, value of 4 through 6, and chroma of 4 through 8. Texture in the fine earth fraction is silty clay loam, clay loam, loam, or silt loam. Reaction ranges from slightly acid to neutral.

The 2Bt horizon where present has hue of 5YR through 7.5YR, value of 4 through 8, and chroma of 4 through 8. Texture in the fine earth fraction is commonly silt loam, loam, or clay loam, but also includes in some pedons silty clay, silty clay loam and clay. Reaction ranges from moderately acid to neutral.

The 2C horizon has hue of 5YR through 2.5Y, value of 4 through 8, and chroma of 4 through 8. Texture in the fine earth fraction is commonly silt loam, loam, or clay loam, but also includes in some pedons silty clay, silty clay loam and clay. Reaction ranges from moderately acid to neutral.

GEOGRAPHIC SETTING: *Funkstown soils occupy upland draws and head slope positions. Slopes range from 0 to 3 percent. Funkstown soils formed in colluvial and alluvial material washed from surrounding upland soils, over limestone residuum. Mean annual precipitation ranges from 38 to 50 inches, and mean annual air temperature ranges from 51 to 53 degrees F.*

GEOGRAPHICALLY ASSOCIATED SOILS: *These are the Dunning, Huntington, Lindside, Melvin, Timberville, and Warners soils. The Dunning, Huntington, Melvin, and Warners soils have a mollic epipedon. Lindside contains less than 15 percent sand in the particle size control section. Timberville soils contain more than 35 percent clay in the particle size control section.*

DRAINAGE AND PERMEABILITY: *Moderately well drained. Runoff is slow. Permeability is moderate.*

USE AND VEGETATING: *Most areas are in crops or pasture. In urban settings, they are in waterways or open spaces.*

HAGERSTOWN SERIES

The Hagerstown series consists of deep and very deep, well drained soils formed in residuum of hard gray limestone. Slope ranges from 0 to 45 percent. Permeability is moderate. Mean annual precipitation is 30 to 45 inches. Mean annual air temperature is 45 to 58 degrees

RANGE IN CHARACTERISTICS: *Solum thickness ranges from 40 to 72 inches, however, clay content decreases by more than 20 percent if deeper than 60 inches. Depth to hard limestone ranges from 40 to 84 inches or more. In limed soils, the upper part of the solum ranges from slightly acid through slightly alkaline and the lower part of the solum and substratum ranges from moderately acid through neutral. Hagerstown soils are low in rock fragments with less than 15 percent by volume. The weighted average clay content of the textural control section is between 35 and 60 percent.*

The A or Ap horizon has hue of 10YR, 7.5YR, or 5YR, value of 3 to 5, and chroma of 2 to 4. Texture is silt loam, loam, clay loam, and silty clay loam.

The BE horizon has hue of 7.5YR or 5YR, value of 4 or 5, and chroma of 4 to 8. Texture is loam or silt loam.

The Bt horizon has hue of 5YR or 2.5YR, value of 4 or 5, and chroma of 4 to 8. Subhorizons of some pedons are 7.5YR. Texture is silty clay, clay, or silty clay loam.

The BC or BCt horizon has hue of 7.5YR to 2.5YR, value of 4 or 5, and chroma of 4 to 8; it ranges from being uniform in color to moderately variegated. Texture is silty clay, clay, clay loam, or silty clay loam.

The C horizon if present has hue of 10YR to 2.5YR, value of 4 to 6, and chroma of 4 to 8; it ranges from being uniform in color to moderately or highly variegated. Texture ranges from silt loam, loam, clay loam, silty clay loam to clay. In many pedons the C horizon is absent or is a very thin transition horizon between solum and bedrock.

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GEOGRAPHIC SETTING: Hagerstown soils occupy valley floors and the adjacent hills. In some areas rock outcrops are common surface features. Most slopes are less than 15 percent but range up to 45 percent. The soils developed in materials weathered from hard gray limestone of rather high purity. The climate is temperate and moderately humid, with a mean annual temperature of 45 to 58 degrees F. and mean annual precipitation of 30 to 45 inches.

GEOGRAPHICALLY ASSOCIATED SOILS: These are the Athol, Baltimore, Benevola, Clarksburg, Duffield, Dunmore, Edom, Elliber, Elk, Frankstown, Frederick, Conestoga, Murrill, and Opequon soils. Athol, Baltimore, Conestoga, Duffield, Elk, Frankstown, Murrill and Wiltshire soils have less than 35 percent clay in the textural control section. Baltimore and Benevola soils have an Ap horizon with a value of less than 3.5. Clarksburg, Dunmore and Frederick soils have a Bt horizon 50 to 75 inches thick that is dominantly kaolinitic in mineralogy. Edom soils have sola less than 40 inches thick. Opequon soils are less than 20 inches to bedrock.

DRAINAGE AND PERMEABILITY: Well drained. The potential for surface runoff is moderate to high. Permeability is moderate.

USE AND VEGETATION: General crops, pastures, orchards, and truck crops. Large areas are in non-farm uses. Native vegetation is mixed hardwoods, including black walnut.

OPEQUON SERIES

MLRA(s):	116A,	121,	124,	128,	147
Depth		Class:			Shallow
Drainage	Class	(Agricultural):	Well		drained
Saturated Hydraulic Conductivity	Class:	Moderately	high	to	moderately low
Permeability	Class	(obsolete):	Moderate	to	slow
Landscapes:	Limestone	uplands;	mountains,	hills,	valleys, karst
Parent Material:	Residuum weathered from relatively pure limestone or dolomite. In some areas the bedrock and the solum may contain chert.				
Slope:	0	to	100		percent
Mean Annual Air Temperature	(type	location):	52	degrees	F.
Mean Annual Precipitation (type location): 40 inches					

RANGE IN CHARACTERISTICS:

Solum Thickness: 12 to 20 inches

Depth to Bedrock: 12 to 20 inches

Rock Fragment content: Fragments of limestone and chert range from 0 to 35 percent, by volume, throughout the soil

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Soil Reaction: Strongly acid to moderately alkaline.

Other features--Some pedons have B horizons which strongly effervesce in the lower part.

GEOGRAPHIC SETTING:

Landscapes: Limestone uplands; mountains, hills, valleys, karst

Landforms: Mountain slope, hillslope, valley side, karst valley. Rock outcrops are commonly associated with Opequon soils.

Hillslope Profile Positions: summits, shoulders, backslopes

Parent Material: Residuum weathered from relatively pure limestone or dolomite. In some areas the bedrock and the solum may contain chert.

Slope: 0 to 100 percent

Elevation: 330 to 3000 feet

Frost-free period: 130 to 190 days

Mean Annual Air Temperature: 48 to 58 degrees F.

Mean Annual Precipitation: 35 to 50 inches

GEOGRAPHICALLY ASSOCIATED SOILS:

All of the following geographically associated soils are more than 20 inches deep to bedrock:

Bratton soils, Caneyville soils, Carbo soils, Chilhowie soils, Edom soils, Elliber soils, Faywood soils, Funkstown soils, Hagerstown soils, Murrill soils, Oaklet soils, Poplimento soils, Vertrees soils, and Watahala soils

DRAINAGE AND SATURATED HYDRAULIC CONDUCTIVITY:

Drainage Class (Agricultural): Well drained

Internal Free Water Occurrence: Very deep and absent

Index Surface Runoff: Negligible to very high

Saturated Hydraulic Conductivity Class: Moderately high to moderately low

Permeability Class (obsolete): Moderate to slow

Shrink-swell Potential: High

Flooding Frequency and Duration: None

Ponding Frequency and Duration: None

USE AND VEGETATION:

Major Uses: Largely in permanent pasture. In some areas, non-rocky areas are used for crops.

Dominant Vegetation: Where cultivated--alfalfa, small grains, corn. Where wooded--native vegetation was mainly mixed oaks. Cedars are common on unmanaged pasture and abandoned fields.

POPLIMENTO SERIES

Soils of the Poplimento series are very deep and well drained with moderately slow permeability. They formed in residuum from a mixture of shale, limestone, siltstone, and fine sandstone bedrock in the Ridge and Valley portion of the Shenandoah Valley. Mean annual temperature is

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about 53 degrees F and mean annual precipitation is about 35 inches near the type location. Slopes range from 2 to 60 percent.

RANGE IN CHARACTERISTICS: *Solum thickness ranges from 40 to 70 inches. Depth to hard limestone, shale, or siltstone bedrock is greater than 60 inches and varies greatly over short horizontal distances. The content of rock fragments ranges from 0 to 55 percent in the A and BA horizons, 0 to 15 percent in the upper part of the Bt horizon, and from 0 to 55 percent in the lower part of the Bt and the C horizons. Reaction ranges from very strongly acid through slightly acid throughout.*

The Ap or A horizon has hue of 7.5YR or 10YR, value of 3 through 6, and chroma of 2 through 6. Horizons with value of 3 and chroma of 2 or 3 are less than 7 inches thick. The Ap or A horizon is loam, silt loam, or silty clay loam in the fine-earth fraction.

The BA horizon, where present, has hue of 5YR through 10YR, value of 3 through 6, and chroma of 2 through 8. It is loam, silt loam, silty clay loam, silty clay, or clay in the fine-earth fraction.

The Bt horizon has hue of 5YR through 10YR, value of 4 through 6, and chroma of 4 through 8. The Bt horizon is silty clay loam, silty clay, or clay in the fine-earth fraction. The particle size control section averages more than 35 percent silt and less than 15 percent sand.

The BC (where present) and C horizon have colors similar to those of the Bt horizon. In some pedons, the C horizon is dusky red (2.5YR 3/2) or reddish brown (2.5YR 4/4, 5/4), (5YR 4/3). They are silty clay loam, silty clay, or clay in the fine-earth fraction.

GEOGRAPHIC SETTING: *Poplimento soils are on gently sloping to very steep uplands in the Shenandoah Valley. Slopes range from 2 to 60 percent, but are most commonly 3 to 15 percent. Nonrocky, rocky, and very rocky phases occur in some areas. These soils formed in material weathered from a mixture of shales, limestone, siltstones, and fine sandstones. Mean annual temperature is about 53 degrees F., and mean annual precipitation is about 35 inches near the type location. The growing season ranges from 155 to 200 days.*

GEOGRAPHICALLY ASSOCIATED SOILS: *These include the [Duffield](#), [Frederick](#), [Groseclose](#), [Hagerstown](#), [Nicholson](#), [Timberville](#), and [Webbtown](#) soils on similar landscapes. Duffield soils are fine- loamy. Nicholson soils have a fragipan. Hagerstown soils have a redder subsoil. Frederick and Groseclose soils have less than 35 percent base saturation. Timberville soils occur in slight depressions and at the heads of drains and have thicker surface layers. Webbtown soils are loamy-skeletal.*

DRAINAGE AND PERMEABILITY: *Well drained; slow to very rapid runoff; moderately slow permeability.*

USE AND VEGETATION: *Most areas are in cropland or pasture. Major crops include apple and peach orchards, small grains, corn, and mixed hay. A few areas are in woodland mainly consisting of upland oaks, hickory, yellow-poplar, walnut, and ash.*

RYDER SERIES

The Ryder series consists of moderately deep, well drained soils. They formed in residuum weathered from thin bedded shaly limestone. They are on convex upland slopes of 0 to 25 percent. Permeability is moderate. Mean annual precipitation is 43 inches. Mean annual temperature is 52 degrees F.

RANGE IN CHARACTERISTICS: *Solum thickness ranges from 20 to 36 inches. Depth to bedrock ranges from 24 to 40 inches. Rock fragments of white quartzite and limestone range from 0 to 25 percent in the solum and from 25 to 75 percent in the C horizon. Reaction ranges from strongly acid through neutral in the solum and from moderately acid through neutral in the C horizon. The most common clay mineral is illite. Other minerals of chlorite and interstratified chlorite-vermiculite occur in small quantities.*

The Ap horizon has hue of 10YR, value of 3 through 5, and chroma of 2 to 4. Fine-earth texture is silt loam or silty clay loam.

The B horizon has hue of 7.5YR through 2.5Y, value of 5 or 6, and chroma of 4 through 6. Fine-earth textures are loam, silt loam, and silty clay loam. It commonly has 18 to 30 percent clay and 45 to 65 percent silt.

The C horizon has hue of 7.5 YR or 2.5Y, value of 4 or 5, and chroma of 3 through 6. Fine-earth textures are loam, silt loam, or silty clay loam.

GEOGRAPHIC SETTING: *Ryder soils are on nearly level to moderately steep soils on dissected uplands. Slopes range from 0 to 25 percent. Ryder soils formed in residuum weathered from thin bedded limestone. Climate is humid and temperate with mean annual precipitation of 40 to 46 inches; mean annual temperature ranges from 47 to 59 degrees F., and the growing season ranges from 135 to 200 days.*

GEOGRAPHICALLY ASSOCIATED SOILS: [Bedington](#), [Berks](#), [Clarksburg](#), [Comly](#), [Duffield](#), [Nollville](#), [Penlaw](#), [Thorndale](#), [Washington](#) and [Weikert](#) soil are on adjacent uplands. [Lindside](#), [Melvin](#), [Newark](#), and [Funkstown](#) soils are on adjacent floodplains. Bedington, Duffield, Nollville, Washington and Funkstown soils have bedrock at depths greater than 40 inches. Berks soils do not have an argillic horizon and average more than 35 percent rock fragments in the textured control section. Clarksburg, Comly, Penlaw and Thorndale soils have fragipans and seasonal high water tables. Weikert soils have bedrock between 10 and 20 inches of the soil surface. Lindside, Melvin and Newark soils do not have argillic horizons and have high watertables.

DRAINAGE AND PERMEABILITY: *Well drained. Runoff is medium to very rapid. Permeability is moderate or moderately rapid.*

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***USE AND VEGETATION:** Approximately 80 percent of the Ryder soils are in cropland, and the remainder are in woods, pasture or non-farm uses. Wooded areas are in mixed hardwood trees.*

See Exhibit 3 for soil map and additional soil information on pages 46 - 51.

8. Existing Natural or Man-Made Features

Natural Features:

The parcel contains fallow fields and unmanaged woodland. The site is in farm use. The woodlands are not being harvested.

Woodlands in these soils are typically different varieties of oaks, black walnut, hickory, yellow poplar, ash and cedar. Rocky areas are located within some of these woods.

Per the USDA, Natural Resources Conservation Service, no known sinkholes exist onsite. The Conservation Service map indicates the closest sinkhole to the property is along the Norfolk and Southern railroad tracks, approximately 570 feet south of Morgana Estates.

These sink holes are shown on page 52, Exhibit 4, Sinkholes Map

The site is located in Zone C according to FIRM Community Panel No. 540065 0020 B. No floodplain is indicated onsite.

According to the Wetlands Map at Exhibit 5, there are no wetlands on the site. If there are any on the site, they may be located within the swales of the Funkstown soil series. If any wetlands are found, appropriate measures will be taken to protect them.

See Exhibit 5 Wetlands Map at page 53 - 54.

Manmade Features:

The western portion of the site is cleared into farm fields. An existing gravel drive provides access to the existing residence from Kearneysville Pike (WV Rte. 480). Fence rows which have reverted to woodland are on the site. There is a wood storage structure located close to the Billmyer parcel. The old Oak Hill barn was located adjacent to the storage building. According to the owner, it was removed due to safety issues a few years ago.

An electric line enters the southern-most portion of the site. The line is from a utility pole located close to the Ridge Road intersection. It currently provides power for the entire property.

There is an existing well and septic drain-field for the existing residence which is to remain undisturbed.

No manmade ponds or quarries exist upon the property.

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See Exhibit 11 for existing conditions at the last page

Existing Structures



The existing driveway at Kearneysville Pike, WV 480.

The property contains an existing house, carport, detached garage, in-ground pool, cabana and storage building. All these structures and all existing utilities are to remain intact as is. All the structures are located towards the center of the property and reached by the existing gravel driveway off of Kearneysville Pike, WV Rte 480.

House and Accessory Structures :



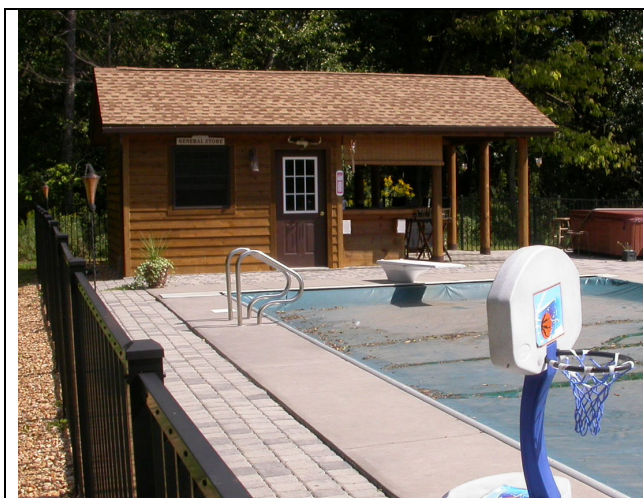
Front of existing residence (unseen from WV Rte. 480)

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The carport with a view of the detached garage beyond.

The existing residence is a treated cedar log house built within the last seven years. The house is two stories with a large central dormer and 1 smaller dormer to each side. A treated cedar porch runs the width of the main structure. The north end of the house has a 10' addition with stone fireplace. The south end has an attached carport and an additional room. The house is constructed of square treated timbers with white mortar, set on stone (or simulated stone) foundation. There is a detached garage with a sliding paddock door and roof cupola.



The cabana sits just north of the pool



The pool and deck area

The rear of the home has a 2 story gabled family room overlooking a deck and in-ground swimming pool. There is a wood cabana (stained to match the log home) north of the pool.

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The storage building



East of the pool is a pathway leading to the storage building.



The structure as viewed from the Southern path. Former site of the old Oak Hill barn is to the left.



View from the north-west Billmyer property corner

Storage building

The existing storage building is located northeast of the Shveda house. The original 2-story wood clapboard structure has a red metal roof. The front of the structure faces east towards the Billmyer parcel. The front has 3 metal garage doors, 2 are pull-up style and the larger center door is a sliding door. On the second floor at the north end is a wood door. There is a loft in the gabled roof.

The south end of the storage structure has a one story cinder block addition in relatively good condition. It too has a red metal roof. The eastern wall of the addition has 2 six-panel windows.

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The front and a portion of the north side of the structure have peeling red paint with white trim. The exposed wood is deteriorated. The other sides of the structure are exposed wood also in rotting condition.

The north side of the structure is densely vegetated and has a collapsing one story lean-to. The clapboard is most rotted on the west side of the structure due to the lack of paint and the dense vegetation.

The west side of the existing structure is currently covered in silver plastic tarp to keep out the rain. The old Oak Hill barn used to be located within 6 inches of the remaining structure. Due to the close proximity of the two structures causing moisture retention, the wood clapboards are more deteriorated on this side.



North-side of the structure



The storage structure has a cinder block addition.



West-side of the storage structure



View of the storage structure from the Billmyer residence

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Oak Hill Barn

The older section of the Oak Hill barn along with a corn crib was removed a few years ago. According to the owner, they were in poor condition and a contractor was consulted on the possibility of restoring the structure. Unfortunately they were too deteriorated to save. Consequently they were removed due to safety issues.

10. Existing Easements, Right of Way

Kearneysville Pike (WV Route 27) is presently contained within a 30 feet right of way along the southern boundary the property.

The Shvedas granted two easements to Potomac Edison (dba Allegheny Power) as follows:

- A 10 ft. easement along the Kearneysville Pike recorded at DB 1008 Page 00678 for placement of electric poles.
- A 30 ft. wide right of way extending into the property for the electric poles serving the residence recorded at DB 976 Page 443

A search of the land records by this office found no other rights of way or other presently existing easements

11. Existing Covenants and Restrictions

In the Deed listed at book 999 Page 00003, the following Covenants and Restrictions are as noted:

1. "Subject to any and all utility easement and rights of way of record and in existence."

A review of the Title Insurance Binder found no other exceptions.

12. Approximate Size, Etc., of Areas to be Dedicated

The access to the site will be via an asphalt road. It will be contained within a fifty feet wide right of way. The road will terminate with a large cul-de-sac with a 100' diameter center median to be used as community open space. The larger size cul-de-sac will also facilitate an easy turn around for buses and trucks.

The road serving the 10 lots will be approximately 1695 feet long with an additional 200' diameter right of way encircling the cul de sac. The total right of way area to be dedicated to the H.O.A. is 2.7 acres.

Storm water will be managed thru the use of two proposed ponds. The larger of the two ponds is proposed in the northeast corner of the site. A 2.1 acre parcel is set aside for this purpose. The smaller pond will be adjacent to WV Rte 480 at the north end of the site. A 1.5 acre parcel is planned for this pond. Both parcels will be dedicated to the H.O.A. for maintenance and upkeep. Storm water drainage easements may be necessary to convey the water across rear draining lots

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to the pond. Actual design of all devices and easements will be determined at Preliminary Plat stage.

An entry sign and 1,000 square foot vehicle/mail pull off area will be located at the entrance to the subdivision within the road right of way on the pond side of the road. Maintenance and upkeep will be dedicated to the Homeowners Association.

A total of approximately 6.3 acres containing the rights of way, community open space and storm water management ponds will be dedicated and eventually owned by the Homeowners Association. Additionally, all easements over individual lots for storm water management and natural drainage protection will be dedicated to the Homeowners Association.

Approximately 0.4 Acres is proposed for the 10' Highway Dedication of Kearneysville Road.

See the Concept Plan located in the rear pocket of the folder for general locations.

13. Intended Improvements

Subdivision Roads:

As previously stated, an internal asphalt entrance road, approximately 1,695 feet in length will be constructed for the subdivision. An entrance sign will be placed at the entrance to the subdivision off of Kearneysville Pike. The road will be constructed within a fifty feet wide right of way and will meet the requirements of Section 8.2.a of the Subdivision Ordinance. The road will intersect Kearneysville Pike at a right angle, swerve to the right past the proposed storm water management parcel and curve to the left once past the Billmyer parcel. It will terminate in a large cul de sac located more than 500' behind the existing residence.

Subdivision Storm Drainage:

Storm water management quality requirements will be addressed through the use of two ponds to contain any increased runoff. Where required, storm drainage easements for drainage and access will be created. Actual design of all devices and easements will be determined at Preliminary Plat stage. The storm water management system will meet the requirements of Section 8.2.c of the Subdivision Ordinance.

Other:

A 1,000 square foot bus/mail pull off area will be constructed near the entrance to the development adjacent the storm water management lot. The oversized cul de sac facilitates the creation of a 100 foot diameter community green circle.

Planned Improvements by purchasers to individual lots:

Water: Individual wells will be constructed on each lot by the lot purchaser in accordance with Jefferson County Health Department requirements.

Sewer: Individual septic systems will be constructed on each lot by the lot purchaser in accordance with Jefferson County Health Department requirements.

14. Intended Land Uses

Ten residential cluster lots, not including the residue lot will be produced as part of the subdivision. All these lots will be used for single-family residences. Each lot will contain a single family dwelling and any related accessory buildings to be built within the required setbacks and height limitations of Jefferson County. The residue lot will contain four family parcels plus the existing residence and continue in agricultural use for the foreseeable future.

15. Intended Earthwork

Earthwork for this subdivision will include grading to construct the road into the subdivision from Kearneysville Pike and the storm water management ponds. In as much as possible the road will follow natural contours.

Earthwork is expected to consist of cut and fill operations within the road right of way and the creation of the storm water management ponds. In order to minimize construction costs, earthwork should be balanced. Any excess earthen material will be spread and compacted where possible without disturbing the natural lay of the land. Approximately 7% of the overall site will be graded as part of the construction and development of the subdivision. This includes all the roads, storm water management facilities and erosion sediment control devices (exact locations to be determined at the Preliminary Plat stage).

As part of the earthwork, all appropriate measures including silt fences, diversion dikes and sediment traps in accordance with County, State and Federal regulations will be taken.

If blasting becomes necessary in order to construct the road, it will be done in accordance NFPA495: Explosive Materials Code 2006. as regulated by the State Fire Marshall's Office.

16. Proposed Covenants and Restrictions

Proposed Covenants are found at Exhibit 6 on pages 55 to 70

The proposed covenants take into account the existing restrictions on the land, particularly with regards to allowed uses.

17. Tentative Schedule

Once approval has been received from all governing bodies, clearing for the subdivision roads and storm water management ponds should start within 90 days. Rough grading and clearing of the site for road construction should occur within 180 days.

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The ten lots may be sold over a period of two years with an anticipated schedule of four to five lots a year. Timing of the actual construction of individual homes will depend upon the purchasers of the lots.

18. Market, Feasibility Study

This subdivision is similar to other scattered subdivisions located in the rural portion of Jefferson County. Similar newer subdivisions include Rattlesnake Run and Cress Creek. Other comparable locations include several Billmyer Mill Road lots and single lots on Persimmon Lane, Gardiners Lane, and Shepherd Grade Road.

A search of for sale lots on two real estate sites in Jefferson County was conducted in early September 2007. The search criteria were for lots between 1 to 6 acres located in the Shepherdstown area. Below is a tabulation of these for sale lots.

No.	acreage	price	Price/acre	Subdivision, Area or Road	Notes
1.	2.0 acres	110,000	55,000	Riverside Acres	Water access, gravel road
2.	2.5 acres	119,500	47,610	Byer Lane	Ex. Well, septic, barn/garage
3.	1.4 acres	137,000	96,888	Billmyer Mill Road	Comparable location, Perked
4.	1.3 acres	148,000	111,278	Billmyer Mill Road	Comparable location, Perked
5.	3.0 acres	159,000	53,000	Leisure Acres	Leisure Acres
6.	4.4 acres	160,000	36,697	Persimmon Lane	Comparable location
7.	2.0 acres	164,000	82,000	Steamboat Run Estates	Older built out subdivision
8.	2.0 acres	164,000	82,000	Steamboat Run Estates	Older built out subdivision
9.	3.6 acres	169,000	47,859	Off 480 on Southpaw Ln.	Comparable location
10.	2.06 acres	179,000	86,893	Willowdale	Older built out subdivision
11.	3.1 acres	179,900	57,660	Leisure Acres	Leisure Acres
12.	2.5 acres	179,900	72,834	Gardiners Lane	Comparable location, wooded
13.	3.0 acres	194,900	64,967	Shepherd Grade Road	Comparable location
14.	3.8 acres	195,000	51,724	Tarrapin Neck	Water Access
15.	3.8 acres	199,000	52,368	Rattlesnake Run	New Subdivision, water access
16.	3.0 acres	199,000	66,113	Oakleigh	Older built out subdivision
17.	3.0 acres	199,000	66,113	Oakleigh	Older built out subdivision
18.	5.0 acres	199,900	39,980	Flowing Springs	2 mi. to Shepherdstown, perked
19.	4.3 acres	239,000	55,581	Billmyer Mill Road	Comparable location
20.	4.3 Acres	247,500	57,692	Rattlesnake Run	New Subdivision, water access
21.	3.2 acres	249,000	78,797	Rattlesnake Run	New Subdivision, water access
22.	3.1 acres	249,000	80,064	Rattlesnake Run	New Subdivision, water access
23.	5.9 acres	249,500	42,288	On Rte. 480	Comparable location
24.	3.0 acres	275,500	91,528	Rattlesnake Run	New Subdivision, water access
25.	3.0 acres	281,000	93,355	Rattlesnake Run	New Subdivision, water access
26.	1.1 acres	295,000	271,445	Cress Creek	Comparable, golf course community
27.	1.2 acres	299,000	258,027	Cress Creek	Comparable, golf course community
28.	1.0 acres	365,000	365,000	Cress Creek	Comparable, golf course community

This selection of lots varied significantly in price from \$110,000 for 2.0 acres to 1 acre for \$365,000. The average price per acre also varied significantly from \$36,697 to \$365,000 per acre.

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Average lot prices per acre according to subdivision:

• Rattlesnake Run	\$ 75,634
• Steamboat Run	\$ 82,000
• Cress Creek	\$ 298,157

Overall average lot price comparing all 28 lots was \$ 91,599 per acre.

Taking a look at the real estate market, the market has been on a downward trend since midsummer 2006. Most impacted by this trend have been new homes on developed lots. This property is a small subdivision consisting of ten lots. As can be seen from the above, there were 28 lots available ranging from 1 to 6 acres in September 2007.

This small subdivision with its woods and rural setting close to Shepherdstown will make it attractive to households seeking a country setting and to persons purchasing land for construction of future dwellings.

19. Project Cost

Development costs include construction, engineering, surveying, planning, Planning Commission fees, percolation tests and Health Department fees and site development will total approximately \$500,000.

20. Funding Sources

The project will be funded privately using local lending institutions and investors.

PHYSICAL IMPACTS

1. Earthwork

The only portions of the site to be stripped of vegetation for the development of the proposed ten cluster lots are the:

- 50' right of way for the proposed road
- the storm water management pond parcels
- erosion / sediment control device areas (actual locations to be determined during Preliminary Plat stage)

It is anticipated that approximately 7% of the site may be stripped of surface vegetation to construct roads and the storm water management facilities.

Grading is expected to occur mainly along the route of the proposed roads. It should be as closed to balanced as possible. Since there is always the possibility that non-ripable stone may be in the path of a cut, blasting may be required. If blasting does become necessary, it will be done in accordance with NFPA495: Explosive Materials Code 2006. as regulated by the State Fire Marshall's Office.

The road construction may modify slightly the natural drainage patterns on the site. Storm water will be routed as much as possible through the roadside trapezoidal drainage swales with check dams for quality control. During construction, water runoff will be controlled by strategically placed stone check dams, sediment basins and silt fences. Rear draining lots may need diversion dikes to direct the increased storm water toward the management ponds.

2. Conversion of Farmland

This property is zoned rural. It is currently in agricultural use, though a portion of the land is in unmanaged woodland. According to the owner, the property was used as a dairy farm in the 1960s. The entire parcel contains 100.66 acres of which 20.2 acres will be converted into residential cluster lots, 2.7 acres will be dedicated to the H.O.A. for the 50' road right of way, and 3.6 acres will be parceled into 2 storm management ponds.

The development of this subdivision will lead to the loss of 26.9 acres of land presently available for farming (the ten lots, the storm water management parcel dedications, the H.O.A. dedicated road, and the highway dedication is included). The 74.2 acre residue lot includes the 0.4 acres of highway easement for Kearneysville Road. Once the subdivision is created, 74.2 acres will be retained in agricultural use or 74% of the original parcel.

We note that 98% the area to be developed is currently unmanaged woodlands. Virtually all the development is in the unmanaged wooded area. None of the ten lots will be cleared as a part of this submission. Once each lot is sold, clearing as necessary will be done by the individual lot owners. Since all ten lots are two plus acres each, a large portion of wooded area will remain, buffering the development.

The 74.2 acre residual lot will continue in agricultural use. The existing farm fields will remain undisturbed except for the four family lots surrounding the cul de sac. The residue parcel and the farm fields in essence will act as an agricultural buffer along the western boundary. We note that the proposed residential use is allowed within the rural zone. The impact of this subdivision upon agricultural land is insignificant.

3. Wildlife Population

Based on information currently available to the Wildlife Resources Center at the West Virginia Division of Natural Resources, there are no known endangered species within the project area.

According to the 1973 Soils Survey of Jefferson County, soils are classified as well suited, suited, poorly suited or not suited for specific types of wildlife. Wildlife is specified as openland wildlife, woodland wildlife and wetland wildlife. According to the Survey, some of the soils found on the site are well suited for openland, woodland wildlife and wetland wildlife.

- “Openland wildlife refers to birds and mammals that normally live in cropland, meadow, pasture and areas overgrown with grasses, weeds and shrubs. Examples are bobwhite, quail, ring necked pheasant, mourning dove, cottontail rabbit, meadow lark, killdeer and field sparrow.”
- “Woodland wildlife refers to birds and mammals that normally live in wooded areas. Examples are ruffed grouse, white-tailed deer, squirrel, raccoon, wood thrush, warbler, and vireo.”
- “Wetland wildlife refers to birds and mammals that normally live in wet areas such as ponds, marshes, and swamps. Examples are duck, geese, heron, snipe, rail, coot, muskrat, mink, and beaver”

See Exhibit 7 Letters from Agencies for the letter from DNR at page 72.

4. Groundwater and Surface Water Resources

Surface Water:

There appears to be no surface water on the entire parcel, though several large wet weather drainage swales are located on the property. The swales primarily run north and south. There is a northern draining swale along the northwestern boundary line. Approximately 250’ west of the existing residence is a swale divide. From that point a sizable swale drains north toward Mecklenburg Heights and another swale drains south towards Kearneysville Pike. A smaller swale drains east across the existing drive toward the Billmyer parcel. East of the Billmyer parcel is another drainage divide. One swale drains towards the northeast and the other drains toward the southeastern corner of the site adjacent to Kearneysville Pike.

The U.S. Fish and Wildlife’s wetland map depicts no wetlands on the property. If any areas are identified at the preliminary plat stage as wetlands, appropriate steps, including buffers will be provided to ensure that any identified wetlands on site are not harmed.

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The Jefferson County Health Department responded by letter to the request for well contamination information affecting the project and surrounding area. There are no areas of concern within the vicinity of the project site.

See Exhibit 5 Wetlands Map for surface water sensitive areas within one mile of the site at page 53-54

See Exhibit 7 Letters from Agencies for the letter from the Health Department at page 73

Ground Water Resources:

Regarding ground water, the most current study is “Fracture Trace Map & Single Well Aquifer Test Results in a Carbonate Aquifer in Jefferson County WV” done by McCoy, Podwysocki, Crider and Weary, USGS in 2005. “Geohydrology, Water Availability and Water Quality of Jefferson County, WV” by the USGS, 1991 was the main source used to date for information.

The subject property according to the map in the 2005 and figure 2 of the 1991 study both agree that the property site is underlain by Conococheague Limestone consisting of Interbedded limestone, dolostone, dololaminite and sandstone. The limestone and dolomites are carbonate rock the sandstone is metamorphic rock. Overall, the Conococheague formation is considered carbonate.

Below is the description from the 2005 study:

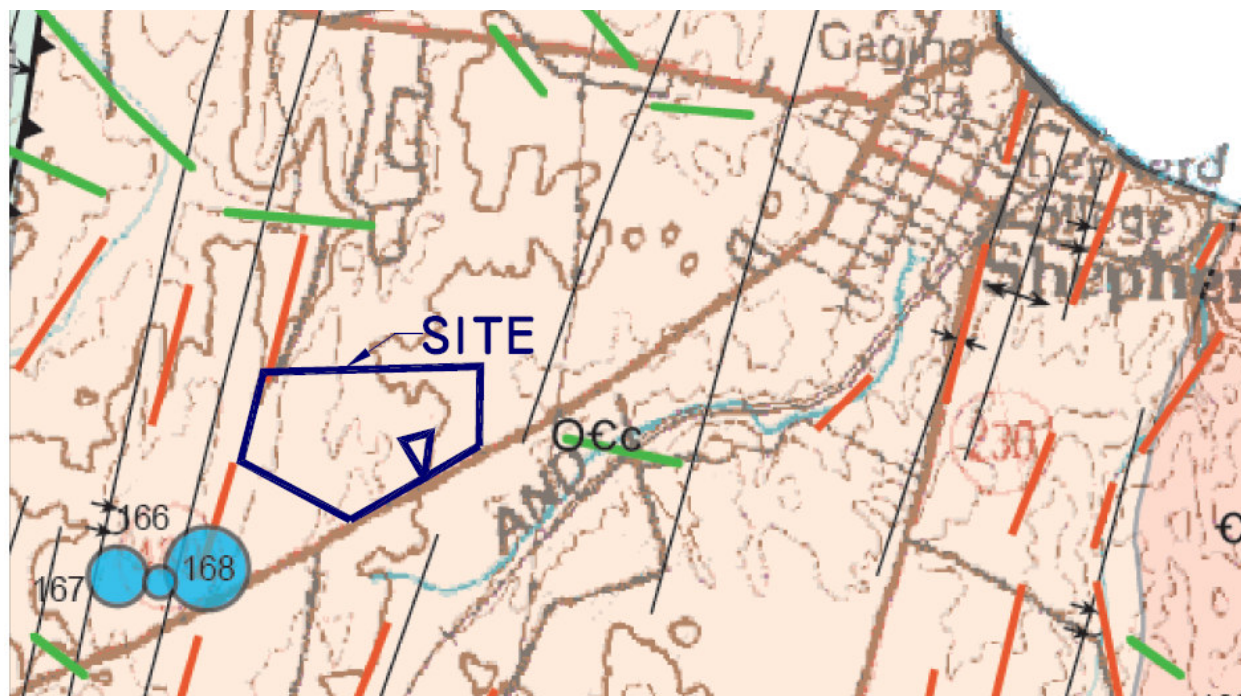
DESCRIPTION OF MAP UNITS

O€c

Conococheague Limestone (Lower Ordovician and Upper Cambrian) -- Interbedded limestone, dolostone, dololaminite and sandstone. Limestone, medium-gray, fine-grained, thin- to medium-bedded. Dolostone and dololaminite, light-gray, fine-grained, medium-bedded. Sandstone, light-gray to buff, reddish-weathering, medium- to coarse-grained, calcareous. Limestone lithologies include intraformational conglomerates, algal bioherms, ribbon rock, and oolites. Lithologies occur as carbonate cycles. Thickness about 2400 ft

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Below is the map of the area from the 2005 study:



- Green lines indicate cross strike fracture traces,
- bold black lines with teeth indicate thrust faults (teeth indicate direction of upper plate);
- thin black lines indicate folds
- red lines are strike-parallel fracture trace.
- blue circles indicate tested wells
- dot size is proportional to transmissivity values.

The portion of the parcel to be developed has no fracture traces, faults, or folds located on it. There is however a strike-parallel fracture trace at the site's northeast corner. Transmissivity {the ability of the aquifer to transmit water} is higher closer to a fracture trace, thus, it is likely wells in close proximity would be more productive. On the other hand, the wells would be more vulnerable to contamination due to higher transmissivity.

The chart below shows information on the nearby well shown above:

Well No.	Well Depth (ft. below surface)	Casing depth (ft.)	Well Diameter (in.)	Transmissivity (ft. ² /d.)	Specific capacity (gpm/ft.)	Static Water Level (ft. below surface)	Aquifer Unit	Pumping discharge (gpm)	Drawdown (ft.)	Pump Test duration (min.)
166			6	30	0.68	45.22	Conococheague Limestone	9.8	14.37	30
167	270	78	8	2,000	6.34	29.34	Conococheague Limestone	12.5	1.97	30
168	232	58	6	10,000	74.45	43.47	Conococheague Limestone	11.5	0.15	31

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The 2005 study concludes that wells located adjacent to targeted geologic features are likely to produce a wide range of yields and that wells located within 100 meters of a fracture trace have a higher median value for transmissivity .

According to the 1991 study, carbonate rock “underlies the central 86% of the County. Although the soils overlying the aquifer are only moderately permeable, surface run off is negligible. The aquifer is recharged primarily from precipitation.”... “Ground water levels fluctuate in response to recharge or discharge from the aquifers...the depth to water varies with geologic and topographic setting. For example, the depth to water in eight wells in valley areas underlain by carbonates rocks ranges from 5 to 105 ft. and averages 30 ft.”

The 1991 study states that “Chambersburg limestone, the Beekman group and the Conococheague and Elbrook Formations are the most productive water bearing units in the county.” The well data above from the 2005 study indicates well depths of 270 and 232 feet, specific capacity at 45.22 gpm/ft, 29.34 gpm/ft, 43.47 gpm/ft. Pumping discharge rated 9.8 gpm, 12.5 gpm, 11.5 gpm. It should be pointed out that well # 167 and well# 168 are adjacent to a fold and a fault, thus high transmissivity and specific capacity numbers. No similar features are located on the site. Consequently, wells on the site may likely have lower numbers but still would provide sufficient output for large lot single family residential use.

In table 3 of the 1991 study, out of 111 wells tested 47 were in the Conococheague Formation. The well yields were:

- 19 produced 1 – 10 gallons/minute
- 17 produced 11 - 50 gallons/minute
- 5 produced 51 - 100 gallons/minute
- 6 produced 101-600 gallons/minute

Table 4 of the same study quotes data from the U.S. Geological Survey Ground-Water Site Inventory (GWSI) data base. GWSI reports that out of the 135 test wells located in the Conococheague Formation, 34% of them or 46 were 0 – 100 feet deep and 34% of them or 46 were 100 – 399 feet deep. The remaining 6% or 8 wells were between 400 - 800 feet deep.

Data from the USGS Ground Water Site Inventory Data Base (1991 study) covering 135 wells in the same formation gave the following depths: 46% were between 0 to 100 feet in depth, 46% were between 101 to 399 feet in depth and 8% were between 400 to 800 feet in depth.

USGS (1991 study) reported yield for 47 wells in this group. Of these, 40% had yields between 1 to 10 gpm, 36% had yields between 11 to 50 gpm, 11% had yields between 51 to 100 gpm and 13% had yields between 101 to 600 gpm.

The 2005 study also indicates that well yields in the area would be adequate.

According to Figure 7 of the 1991 study, the water table at the site should be between the 400 and 450 ft. contour. The property topographic elevations range from approximately 475’ on the northern side of the site to 545’ up on the farm fields . No lots are proposed at elevations higher than 510’.

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It should be noted that prior to being able to obtain a building permit, the owner of each lot will have to obtain a permit from the West Virginia Health Department and the individual wells will have to meet both construction and water quality standards as promulgated by the State of West Virginia.

Storm Water Management:

Storm water will be controlled upon the property through the use of retention ponds, road side ditches with check dams, and other measures as determined during design. During actual design of the storm water management devices which occurs at Preliminary Plat stage, all appropriate steps and consultations will be taken. The storm water management system will meet the requirements of Section 8.2.c of the Subdivision Ordinance.

Care will be taken at preliminary plat stage during design of the storm water management facilities to ensure that the rate of discharge from the facilities, particularly the facility located in the northeast corner of the property is no greater than the existing discharge from the property (controlled to pre-development karst adjusted discharge rates). Also, all proposed impervious surfaces shall drain to and be controlled by the proposed SWM facilities. No uncontrolled or "compensation" areas are anticipated. Additionally measures will be taken to dissipate the discharge to spread the release of water from the facility over a larger area that will not have adverse impacts upon down stream properties.

Both SWM facilities will discharge into existing swales, the one in the southeast corner into the swale bordering the Kearneysville Pike and the one in the northeast corner, the large natural swale that runs from the ridge to the northwest towards Shepherdstown. We note that the area being developed is a small portion of this drainage area and that a large portion of the drainage area has previously been developed (i.e. Mecklenburg Heights and Ledgelow Estates). We also note that post development storm water quality will meet or exceed existing county standards for storm water discharge from the property.

In addition, erosion and sediment control will include installation of stone check dams, silt traps and silt fence to be placed at strategic locations in drainage swales and around all areas where the soil has been disturbed by construction activity.

Wells:

A letter was submitted to the Jefferson County Health Department for available data relating to the existence of contaminated wells within 1000 feet of this proposed subdivision. A response has been received. No well examined within 1,000 of the site tested positive for bacterial contamination. All wells to be constructed (by individual lot owners) will meet Jefferson County Health Department Standards and where necessary water will be treated to ensure safe drinking water.

See Exhibit 7 Letters from Agencies for copy of letter from the Health Department at page 73.

5. Visual and Land Use Compatibility

The property is located in the Rural District. Surrounding uses to the south are principally agricultural with scattered large lot residential development. Toward the North, East and West of the property are the large lot subdivisions of Mecklenburg, Ledgelow and Morgana Estates. All of the above subdivisions have been built out and range in age from 30 years to about 10 years. These residences continue the existing pattern of land use from outside of Shepherdstown along the Kearneysville Pike.

The ten lot subdivision will be well concealed within the wooded portion of the site. Since the smallest lots are a generous 2 acres, there will be plenty of wooded area to remain. The residue parcel of 74.2 acres will be retained in agricultural use. The four family lots will be included in the residue lot at a later date.

By placing the cluster subdivision within the unmanaged woodland portion of the site, the existing view from Kearneysville Pike will be minimally altered. The proposed lots are compatible with the adjacent residential developments of Mecklenburg, Ledgelow and Morgana located to the North, East, and South respectively. The farm fields to the West will buffer the adjacent properties and visually separate them from the new subdivision.

Plans call for the development to contain ten single family cluster residential lots in a subdivision, all two to three acres in size; with a residue lot of 74.2 acres. Total lots to be created will be ten residential lots, not including the residue and the family lots.

The existing zoning for the adjacent developments of Mecklenburg and Ledgelow is residential growth. The proposed 10 lots and the family lots will be adjacent to the residential growth zone. The creation of residential lots is allowed by the Zoning Ordinance in the rural zone. The proposed development will be in accordance with the Zoning Ordinance and will be visually compatible with surrounding uses.

6. Sensitive Natural Areas

Sinkholes:

No sinkholes are identified on the property according to both the Comprehensive Plan for the County and the NRCS. Exhibit 4 depicts the closest known sinkholes to be south of Morgana Estates along the railroad right of way. If during Preliminary Plat stage a sinkhole is detected, appropriate protection measures will be taken.

See Exhibit 4 Sink Hole Map at page 52.

Other Sensitive Areas:

No other sensitive natural areas appear to exist within the confines of the site. If any are discovered during construction, best management practices of sediment and erosion control will be implemented to ensure that those areas remain undisturbed.

SOCIAL IMPACTS

7. Demand for Schools

Based on information provided by the Jefferson County School Board as part of its impact fee analysis, there are 0.64 (0.55 per 2000 census) children for each single family residential unit in the County. We have further broken these numbers down, using the 2000 Census age tables for Jefferson County as follows: 0.29 elementary, 0.15 middle school, 0.05 ninth grade and 0.15 senior high for single family detached homes.

Based on the creation of ten residential lots in the subdivision (not including the residue lot already containing a residence) plus 4 future family lots, the maximum impact on the schools system of this property at this time would be 14 newly created lots. We have used this number in our calculations below.

Ages 5-10: $14 \times 0.29 = 4.06$ or 5 Kindergarten through Fifth Grade students would attend Shepherdstown Elementary School

(current enrollment of 355 children (10/06 figures), SBA capacity of 399.

According to the *State of the Schools Report 2005* prepared by JCPS, “SES (Shepherdstown Elementary School) has earned Exemplary School status for four of the past five years. This designation is given to only 10% of the schools in the state and speaks to the high expectations for all children at SES...Space and safe traffic flow are major issues facing this school. This school is also in a land-locked position and increased vehicular traffic has impacted into the surrounding neighborhood.”

Currently no portables are located at this school.

Ages 11-13: $14 \times 0.15 = 2.1$ or 3 Sixth Grade through Eighth Grade students would attend Shepherdstown Middle School (current enrollment of 414 children, SBA capacity of 420)

According to the *State of the Schools Report 2005* prepared by JCPS, “SMS was built in 1929 and although well respected by the students and staff, the school is showing its age. This year, new art and music space was added, but the need for space continues. This school is also in a land-locked position and increased vehicular traffic has impacted into the surrounding neighborhood

Currently three portable classrooms in two buildings are located at this school.

Age 14-17: $14 \times .05 = .70$ or 1 ninth grader thru tenth through Twelfth Grade students would attend Jefferson High School (current enrollment of 2374 children, SBA capacity of 1949 for both the 9th grade building and the high school). Total enrollment in both buildings is currently 2,374. The SBA capacity for the 9th grade building is 600 and 1349 for the 3 year high school for a total of 1949).

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According to the State of the Schools Report 2005 prepared by JCPS, “JHS is the largest high school in WV...JHS operates on a departmental basis and is involved in a major renovation project at the main campus building. The auditorium has been completed with work to begin soon... to relieve crowding. With the completion of a new high school, the current JHS 9th grade complex will become a middle school, with the ninth grade being split between the renovated JHS and the new high school.”

JHS currently makes use of 11 portable buildings.

We note that for every residential unit built, no matter who resides in it, an impact fee will be paid to mitigate any impact of additional school age children on the Jefferson County School System. It is anticipated that the construction of homes on this parcel will pay a total of \$138,278 (14 x \$9,877) in impact fees based on the impact fee schedule (effective on 4/1/06), no matter who resides in the development. These funds will be used by the Board of Education to provide capital improvements to the school system to offset the impact of new development in the County.

According to our calculations the number of school children generated by this development could range from 7 to 9 children. This number of children will have a minimal impact upon the school system. Furthermore, the opening of the new high school in 2008 will allow for the redefining of school districts and the freeing up of space at both the middle school and high school level.

A letter was sent in August 2007 (using 2006 enrollment figures) to the JCBOE regarding the school impact.

See Exhibit 7, page 75 for letter to JCPS.

8. Traffic

The subdivision will generate an additional 112 trips (14 x 8 = 112) per day. The projected peak hour traffic will be 12 trips (14 x 0.8 = 11.2) per hour.

The West Virginia Department of Highways has two pertinent traffic counts on roads in the vicinity of the proposed development. North of the parcel, a traffic count on Kearneysville Pike just south of Shepherdstown recorded 5000 vehicles per day. The other count, south of the parcel and the Ridge Road intersection on Kearneysville Pike registered 4,700 vehicles per day. All these counts were done in 2005.

We note that Kearneysville Pike is a local service road running from WV Route 9, Charles Town Road to WV Route 45, Martinsburg Pike south of Shepherdstown and the Maryland Border. The road is a paved road located generally within a 30 feet wide right of way. Since peak trips were less than 150 trips per hour, the Subdivision Ordinance does not require either a traffic count or a traffic study. None were done.

Based on the definition of “key intersection” in the Subdivision Ordinance, the nearest key intersections is WV Route 480, Kearneysville Pike and WV Route 45, Martinsburg Pike, approximately a half a mile east of the site. This intersection is noted on the Jefferson County

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Highway Problems Plan as a “problem intersection.”, it is not noted on table T-2. Another relevant “problem intersection” is Kearneysville Pike and Charles Town Road, Route 9. Table T-2 cites this intersection as having “poor left turn movements onto 480 and Route 1”.

See Exhibits 9& 10 for Highway problem areas at pages 87 - 88.

9. Demographic Impact

According to the U.S. Census Bureau, American Fact Finder Table QT-H2 tenure, household size and age of householder: Census 2000, 100% data, for Jefferson County the average household size is 2.54 persons per household, therefore this subdivision will add (14 x 2.54) 36 persons in the subdivision to the County.

10. Health and Emergency Medical Facilities

Local doctors and other medical services are located in Ranson and Charles Town, as well as in Shepherdstown (pharmacy, doctor and dentist offices). Jefferson Memorial Hospital in Ranson, approximately four and a half miles from the site, has adequate facilities to provide a broad range of medical services and meet the emergency needs of the residents. EMS services are provided by the County’s Emergency Medical Services located in Ranson and also at the Shepherdstown Volunteer Fire Company where EMS personnel is stationed on weekdays form 6 a.m. to 4 p.m. There are also hospitals and physicians in Martinsburg WV.

See Exhibit 7 Letters from Agencies for letter from Jefferson Memorial Hospital at page 74

The Jefferson County Ambulance Authority stated in their response letter dated September 4, 2007, “The primary ambulance company will be Shepherdstown Fire Department with supplemental emergency medical technicians from the Ambulance Authority....The current average EMS response to this area is 6 minutes.”

See Exhibit 7 Letters from Agencies for the letter from the Ambulance Authority at page 79

11. Fire

The development lies within the fire district that is served by the Shepherdstown Volunteer Fire Company approximately a half miles away. A letter was sent and a response has not yet been received.

Secondary responders would be Sharpsburg Volunteer Fire Company, across the Potomac River in Sharpsburg MD. Third responder would be Baker Heights Volunteer Fire Company in Berkeley County (information provided by Jefferson County 9-1-1 Addressing Office)

See Exhibit 7 Letters to Agencies for a copy of the letter from Shepherdstown Volunteer Fire Company at page 78

12. Police

The West Virginia State Police and the Jefferson County Sheriff's Department both have jurisdiction at the development site.

See Exhibit 7 Letters from Agencies for letters from the Sheriff and from the West Virginia State Police at pages 76 & 77.

13. Trash Removal

Apple Valley Waste will provide trash removal.

See Exhibit 7 Letters from Agencies for the letter from Apple Valley Waste at page 80.

14. Electric Service

The Allegheny Power Company will serve the site.

15. Telephone Service

Frontier Communications will provide phone service to this site.

16. Water and Sewer Service

All lots within the proposed subdivision will be served by individual wells and septic systems constructed in accordance with the requirements of the Jefferson County Health Department.

17. Relationship of Property to Comprehensive Plan

As part of the 2004 Comprehensive Plan, some general goals from the 1994 plan were adopted as part of the *Statement of Goals*.

On page 19 of the adopted 2004 plan the following goal is stated:

"Promote a diversity of housing within the County"

The cluster lots allow for a diversity of housing and allow the opportunity for inhabitants to live in a rural setting. No existing cluster subdivisions except for Deerfield Village have been constructed in the Shepherdstown area. The cluster type subdivision offers a different type of product than the normal subdivision that uses all the land in the tract. Instead this subdivision preserves open space while providing spacious lots for home sites. This adds to the mix of lot types that can be found in the county and adds to the diversity of development types in the county, from traditional small lot subdivision to large lot subdivisions, to cluster subdivisions that preserve land while affording housing development opportunities.

Additionally, because of the cluster concept, improvements such as roads, etc. will be shorter than in a conventional subdivision (divided into lots of 3 acres or more in the rural zone),

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creating a lower per lot improvement cost that may be passed on to the lot buyers, allowing the potential for first time home buyers within the subdivision.

Page 41 of the adopted 2004 Plan states:

“Land areas that are outside of the regions that can reasonably be expected to be served by water and sewer facilities should be developed at lower densities, with properties employing wells and drain fields.”

This development, by creating ten cluster lots, an existing residence plus an eventual four family lots on a total parcel of 100+ acres is outside of the area that can logically be served with water and sewer. The lower density and the individual water and septic systems are appropriate for this type of area.

Page 54 of the adopted 2004 Plan states:

“The County should investigate mechanisms to foster the maintenance of land in farm uses. Specifically, should:

- c. Support diversified rural land uses by exploring means by which to diversify farming operations. If farming is no longer economically viable, there will be no farms.*
- d. Improving design of residential development in the Rural District, providing incentives which ensure that cluster subdivisions are the preferred means by all parties which developing rural tracts.”*

Page 55 of the adopted 2004 Plan states:

“While farmland can be better protected by clustering, clustering ordinances often are more geared toward rural landscape protection and not toward farmland protection. Many rural parcels with mature tree stands and other environmental features which are not farmed actually benefit more from cluster development than farmed parcels”.

By clustering all the proposed lots in the unmanaged woodland and saving the farm fields in the residue lot, the farmland is protected as recommended in the Comprehensive Plan.

Page 55 of the adopted 2004 Plan also states:

“Use of natural features in the development area and perhaps dedicated open space lots could further buffer residential uses from the continued farming operation. Also, strategic location of clustered housing development can have a reduced visual impact on the agricultural area of the District.”

By clustering all the proposed lots adjacent to the existing residential subdivisions along the northern, eastern, and western boundary of the site, the 74 plus acre residue lot which will remain in agricultural use buffers the agricultural neighboring parcels south of the site.

17. Housing Supply

The latest information released by the US Census indicates that from April 1, 2000 to July 1, 2006 Jefferson County was the second fastest growing County in WV with an increase of 8,253 inhabitants. It had a 19.6% increase in population, second only to Berkeley County (one of the 100 fastest growing counties in the USA) which grew by 28.5 %.

When one reviews building permits, it is clear that new construction has been principally in single family residential units. Also, construction in new single family units appears to be fairly steady though there has been a drop in permits issued. Building permits issued for the first half of 2007 are just under half the permits issued in 2006.

Below is a review of several data sources regarding building permit activity in Jefferson County:

- Jefferson County Department of Planning, Zoning & Engineering by number of individual units and value:

	Single Family	Total Value	Duplex	Total Value	Town homes	Total Value	Mobile homes (both new & replacement)	Total Value
2001	568	\$84,933,412			43 ¹	\$4,177,000	109	\$1,166,414
2002	503	\$ 99,241,644	18	\$2,996,000	15	\$2,073,000	46	\$1,679,080
2003	644	\$141,016,766	29	\$5,866,000	8	\$1,280,000	112	\$3,274,611
2004	345	\$87,422,702	17	\$2,835,000	8	\$1,280,000	50	\$1,277,894
2005	328	\$104,416,701	10	\$2,106,000	9	\$2,250,000	30	\$1,467,380
2006	255	\$ 74,439,351	2	\$ 196,000	55	\$8,929,640	26	\$ 1,087,782
1 st & 2 nd Qtr. 2007	129	\$ 40,501,821	0	\$ 0	48	\$8,780,110	17	\$ 738,400

- U.S. Census Data ([Http://censtats.census.gov](http://censtats.census.gov)) comparing 6 years Information on single family homes only for the month of March (Covers both the County and Municipalities, imputes numbers for non reporting jurisdictions):

	Month of March			Cumulative year to date Estimates with imputation		
Single family residences	Buildings	Units	Construction cost	Buildings	Units	Construction cost
2004	66	66	12,594,292	215	215	39,674,318
2005	82	82	17,027,485	200	200	40,192,280
2006	65	65	13,036,766	229	229	49,210,840
2007	33	33	7,925,099	87	87	25,269,375

- Additionally information kept on Impact Fees (obtained from Jefferson County Department of Impact Fees) from January 2004 to December 2007 indicates the same trend continuing:
849 single family homes and 84 town homes

¹ Includes both apartments and town homes

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Based on a review of Census data for Jefferson County, the County in 2000 contained 17,623 housing units of which 16,165 were occupied. Of the households in occupied housing units, 1737 had incomes below poverty level. Of the 1458 vacant units, 16 were boats, RVs, vans, etc, and over a third of the vacant units were constructed prior to 1960 (514 units). Additionally only 157 vacant units were available for rent at a median monthly rent of \$453 and 163 vacant units were available for sale at a median price of \$93,300. Based on this information regarding vacant units, the effective vacancy rate, based on units actually available, was under 2% as opposed to the rate derived from the Census of 8%. An effective vacancy rate of 4% or less indicates a tight housing market. Based on this information, we can see that there is a need for additional housing in the County.

Also, according to the Jefferson County Planning and Zoning Commission's annual report for 2002 (the last report publicly available) from 1972 thru 2002, 21,828 lots plus 334 apartment units were proposed at Community Impact Stage, while only 7,810 lots plus 154 apartments were actually approved or a ratio of only one lot actually recorded and available for construction for every 2.8 lots proposed at Community Impact Stage.

The same ratio holds true for 2002 when 1,434 lots were proposed and only 503 were actually approved ($1434/503=2.8$).

Appendix A (page 113 -114) of the Comprehensive Plan states that using Community Impact Statements as an indicator of growth is ill advised. Therefore it may be best to compare actual lots recorded and building permit activity to see if there is a need for additional lots

According to Appendix B of the Jefferson County Comprehensive Plan (page 120), from 1984 thru 2002; 7,149 Improvement Location Permits were actually issued:

- 6,050 for single detached dwellings, duplex units and townhouses
- 1,099 for mobile homes.

During that same period 5,001 residential lots and 434 apartment units were approved. So, more buildings were built than lots approved.

The Comprehensive Plan at page 113 also notes the change in household size, noting that households have decreased in size from 3.21 persons per household in 1970 to 2.54 persons per household in 2000. This can be seen in that housing units increased at a faster rate than population during this period:

- in the 1970s population increased by 42.4% and housing units increased by 55.7%.
- in the 1980s population increased by 18.5% and housing units increased by 26.5%.
- in the 1990s population increased by 17.4% and housing units increased by 20.7%.

As can be seen from the latest census information and building permit information, the County continues to grow though more slowly, having grown 16.6 % over the past five years. With continued population growth, there is a demand for new housing.

19. Historic Sites

According to the Historic Surveys conducted in Jefferson County in the 1970s and in 2007, the following properties were identified:

The Oak Hill Barn: This building is located on the property near the Billmyer property. According to the current owner, 4 structures used to exist, 2 of which were removed a few years ago due to safety concerns. The remaining 2 structures are used purely for storage purposes. A description and photographs are found at pages 18 and 19. The 2007 survey identifies the structure but provides no information on it.

The Boteler House, listed as number 121 on the 1970s survey is across the street from the parcel. The house is setback from Kearneysville Pike approximately 400 plus feet. No other information is provided.

No structures on the National Register of Historic Places are located within 500' of the proposed site.

No cemeteries or other historic sites are located on the property.

Historic properties identified in the vicinity are located along Kearneysville Pike.

See Exhibit 8 Material from Historic Inventory for the pertinent data concerning the structures in the vicinity identified in the Windshield Survey at pages 81 - 86.

20. Recreation

No recreational facilities are required due to the large size of the individual lots. The Subdivision Ordinance does not require land to be set aside for recreation if overall density is less than 2 units per acre of residential land. This development has a density of roughly 1 unit for every 2.7 residential acres.

The closest park is Morgan's Grove Park; a County operated park located 0.4 miles north on Kearneysville Pike.

No state parks are located in the vicinity of the proposed development.

ECONOMIC IMPACTS

21. Property Tax Evaluation

It is estimated that the subdivision will generate at least \$36,242 in property taxes based on the following computation:

- Jefferson County Property Tax Guide, Class II Tax Rates
- Estimated value of project including houses: \$5,200,000 (10 lots)
- Assessed value (60% of \$5,200,000): \$3,120,000
- Total county tax rate: \$1.1186/\$100 of valuation
- Tax computation: \$3,120,000 divided by \$100 multiplied by \$1.1186 equals \$34,900.32.

Additional economic impacts will be created via the School and Police Impact Fees adopted by the County Commissioners and payable to the County at the time a building permit is issued. Ten new single family residential parcels are being created. Based on the present school impact fees (\$10,655 per single family residence), a minimum of \$106,550 will be made available to assist with schools.

Below a table indicating impact fees for the subdivision

	Impact fee	10 lots
Schools	\$10,655	\$106,550
Law enforcement	\$135	\$1,350
Parks and Recreation	\$751	\$7,510
Fire and EMS	\$603	\$6,030
Total	\$12,144.00	\$121,440

As a result of this project, additional funds will flow to the County Commission and the Board of Education for use in providing public services to the residents of this development and will assist in mitigating any impacts upon the same public services. We note that this is the minimum amount that will be collected in Impact Fees since all the fees except for the School fee are recalculated automatically (unless the Commissioners act to not increase the fees) each year at the beginning of April.

22. Bank Deposits and Loans

The closest banks are located in Shepherdstown. Other banks are found in Charles Town and Kearneysville. These banks will be accessible by the residents and it is assumed that the occupants of the development will most likely utilize local banking facilities. As a result, banking activities such as deposits, investment accounts and mortgages may increase.

23. Anticipated Local Spending

It is anticipated that a local contractor will construct the roads and other improvements. Many of the contractors' employees will most likely be Jefferson County residents. Most construction materials will be purchased locally.

Residents of the project will generally shop in Shepherdstown and will also occasionally shop in Ranson or Charles Town for both food and sundries, and thereby contribute to the local economy. The closest stores are located in Shepherdstown with specialty shops; restaurants and entertainment located in the downtown and a Food Lion, Rite Aide etc. are located at the Maddex Square Shopping Center.

24. Local Employment Implications

Since this development will be marketed locally, it is anticipated that some of the buyers of the properties will work either in Jefferson County or in surrounding communities. Because of its proximity to Shepherdstown and the ongoing enlargement of Shepherd University as typified by the present construction of the new nursing school, the ground breaking for the new arts and drama complex and the ongoing plans for a new Wellness Center at the University, the Shepherdstowne Estates subdivision may be a very attractive community for University staff. This could bring additional demand for services and shops to the Shepherdstown area. However, if local trends continue, many of the buyers may be either households working in the metro area, seeking housing they can afford or households who have reached or are nearing retirement age who want to live in a more rural community.

Additionally local employment opportunities may be created for existing businesses, particularly local custom home builders who may be hired to design and build homes on the individual lots. As more housing is built, there is an increasing need for various types of business. As an example, paint and wall paper stores may find an increase in their business as homeowners personalize their home to their taste. Local nurseries and landscaping businesses will benefit as gardens are landscaped and need on going maintenance.

25. Property Values

Housing in general is a good investment and according to a Washington Post Article in March 2003, housing is a long-term investment that typically appreciates approximately 5% a year. A more recent article in the Washington Post (Dec 18, 2004) discussed the availability of housing within the metro area including Jefferson County. This article pointed out that housing prices in the Shepherdstown Census Tract were higher than in other areas in Jefferson County. Also, according to "the Housing Affordability Index", a compilation of house sales done on a quarterly basis by the National Homebuilders Association, for both the Hagerstown MSA and the Washington DC Metro Area, from 1995 to 2004, median house prices have increased faster than household income as can be seen by the following table:

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Median house price and median income for each region									
Metro Area Washington DC-MD-VA	1st qtr 02	4th qtr 03	3 rd qtr 04	3 rd qtr 05	3 rd qtr 06	4 th qtr 06	1st qtr 07	2 nd qtr 07	% change from 2002 to present
Median house price	200,000	283,000	325,000	407,000	420,000	405,000	370,000	370,000	185%
Median household income	91,500	84,800	85,400	86,200	88,200	88,200	92,600	92,600	1% increase
Metro Area Hagerstown- Martinsburg, MD-WV									
Median house price	129,000	150,000	175,000	235,000	237,000	236,000	220,000	220,000	171%
Median household income	53,500	54,400	54,400	56,250	57,700	57,700	57,900	57,000	6.5% increase

A cursory study of 28 properties in September, 2007 (listed in the MLS) for sale in the Shepherdstown area, lots ranging in size from 1 to 6 acres indicated the following:

- the lowest asking price was \$110,000 for a 2.0 acres
- the highest price was \$365,000 for 1.0 acres
- average price per acre was \$91,599
- 6 lots ranging in size from 2 acres to 2.5 acres had prices between \$110,000 to \$179,900
- Average asking price was out of the 6 lots was \$152,733
- Average asking price was out of the 28 lots was \$207,342

Looking at house prices in the metropolitan area, the following table with information from the National Association of Realtors shows an overall increase in median house prices over four years with a slight decrease in 2007:

Metropolitan Area	2003	2004	2005	2006	2007.I	2007.II	%Chya
Single-family					(Not Seasonally Adjusted, 000s)		
U.S.	180.2	195.2	219.0	221.9	212.6	223.8	-1.5%
NE	220.3	254.4	281.6	280.3	271.3	298.0	0.7%
Hagerstown- Martinsburg, MD-WV	141.8	165.9	208.7	223.1	209.2	218.7	-4.7%
Washington-Arlington- Alexandria, DC-VA- MD-WV	277.9	339.8	425.8	431.0	427.5	445.3	-0.3%

This table indicates median single family home prices for the entire United States, the Hagerstown Metropolitan area which includes Berkeley County, and the Washington Metropolitan Area which includes Jefferson County, all decreased over the year. The north-east region has remained stable or increased slightly. Although Jefferson County is included in the DC metro area category, median house prices may be closer to Berkeley County which is included in the Hagerstown metro area. The second quarter of 2007 indicated a median home price in the Hagerstown MSA of \$218.7 verses a median home price of \$223.1 for 2006.

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Washington MSA median home price rose to \$445.3 in the second quarter, 2007 over 2006's median of 431.0. Also, according to the Harding Report, a local real estate reporting service, the median sold price for a home sale in April 2007 for Jefferson County was \$267,291. This confirms that house sales in Jefferson County will be closer to those in the Hagerstown MSA and will track more closely these sales than those in the DC metropolitan area.

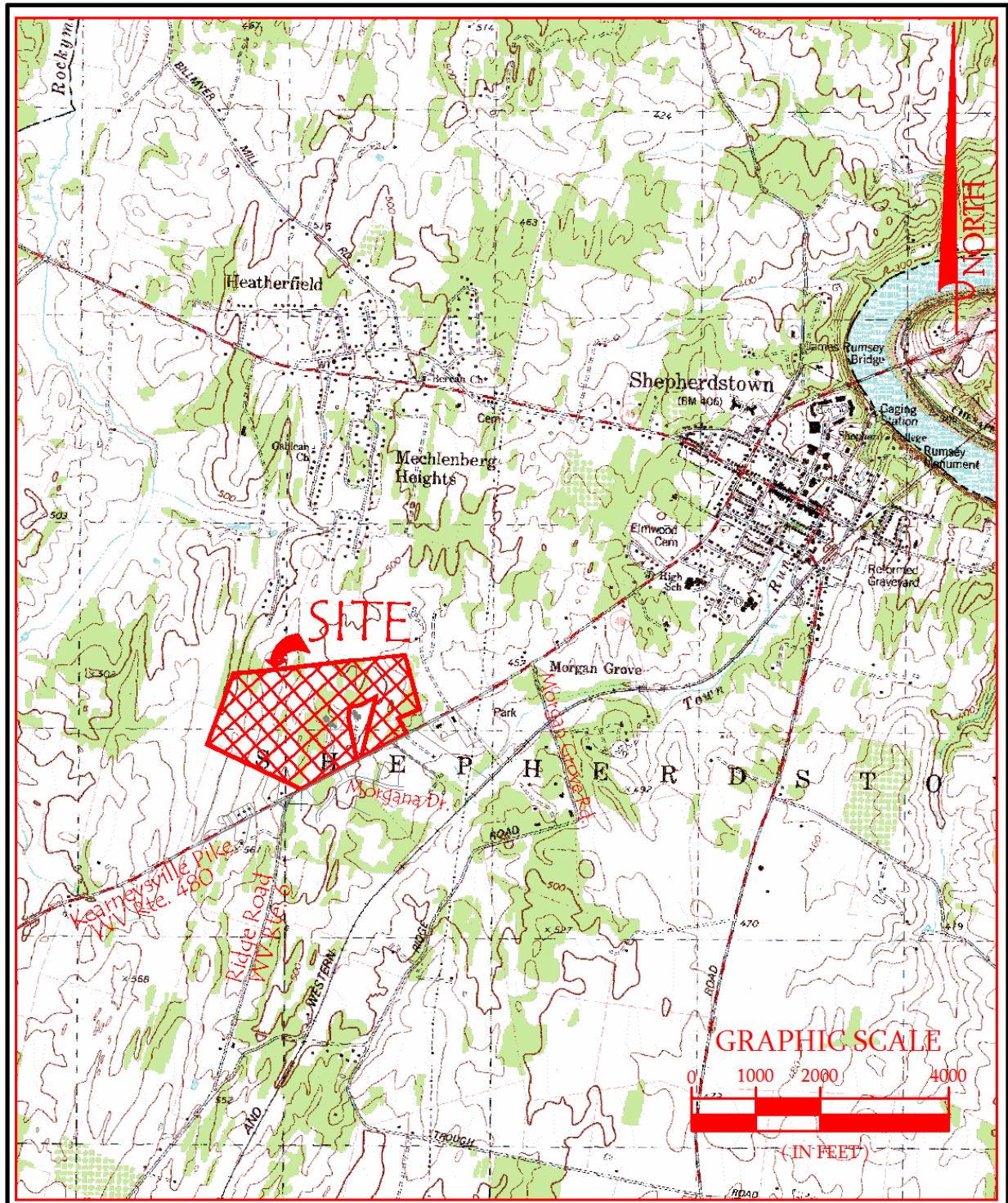
A recent article by the National Association of Realtors dated August 27, 2007 stated "existing-home sales were essentially unchanged in July, with increases in the West and Northeast offset by a decline in the Midwest". Lawrence Yun, NAR senior economist said "the rise in sales and prices in the Northeast region on a fairly consistent basis in recent months is promising because this was the first region that underwent sales and price weakness after the boom. Now, it appears that it will be the first region to climb back, indicating that other regions could follow a similar path."

The above indicates that housing in the long term is a good investment in that its value is definitely increasing at a faster rate than household incomes and that generally, creation of new housing will over time increase the value of both housing and land in the vicinity.

New single-family homes on two acre lots located in Jefferson County should not only maintain their value but may also increase the value of surrounding properties for use as possible home sites. Surrounding residential parcels that have not been used for housing development may see the value of the land increase as new homes are built in the vicinity.

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Exhibit 1: Site Location map



Dewberry

DATE
8/16/07

SCALE
1"=2000'

TITLE
LOCATION MAP

SHEET NO.

PROJ. NO.
50007970

PROJECT
Shveda Property

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Exhibit 2: Site Topography

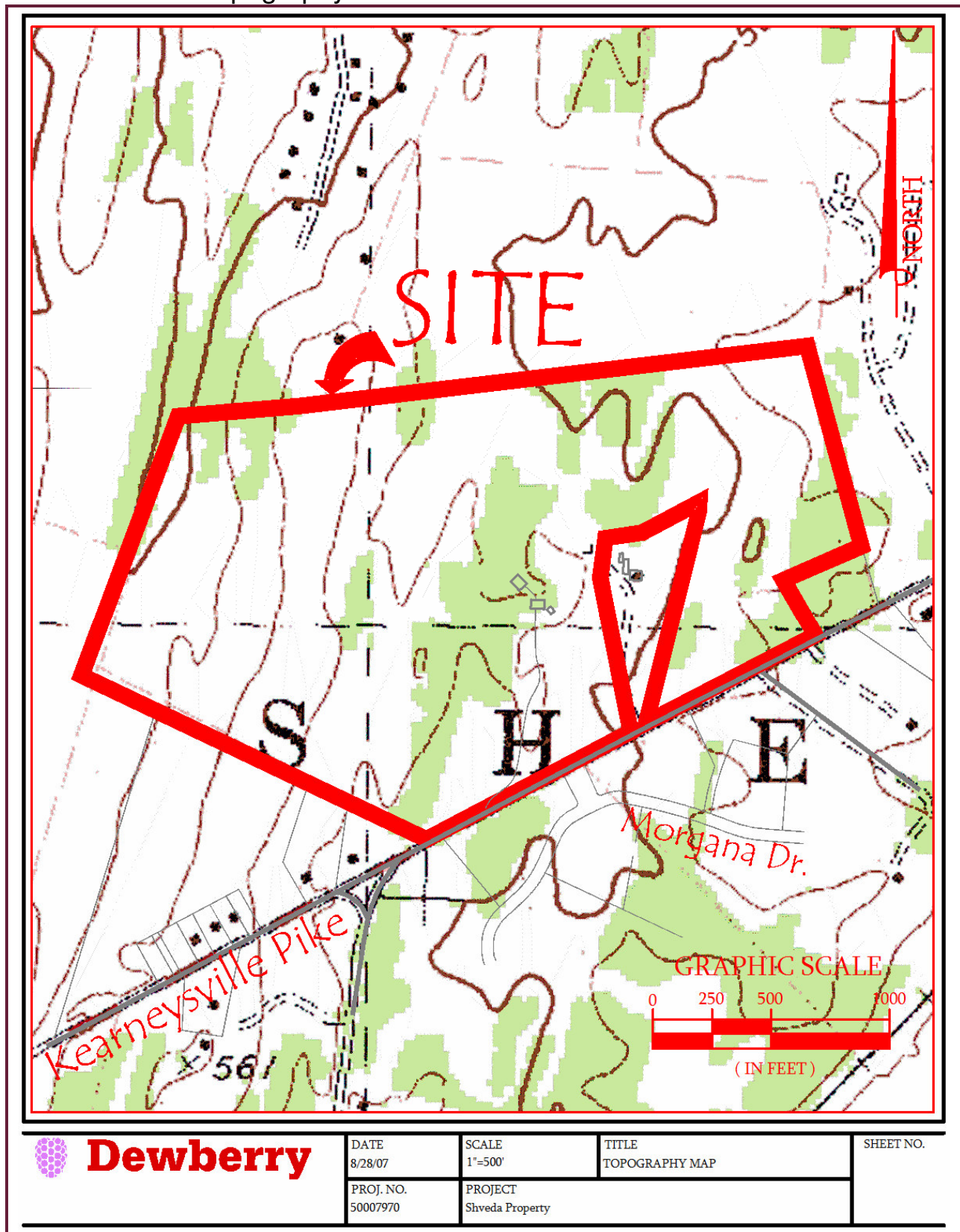
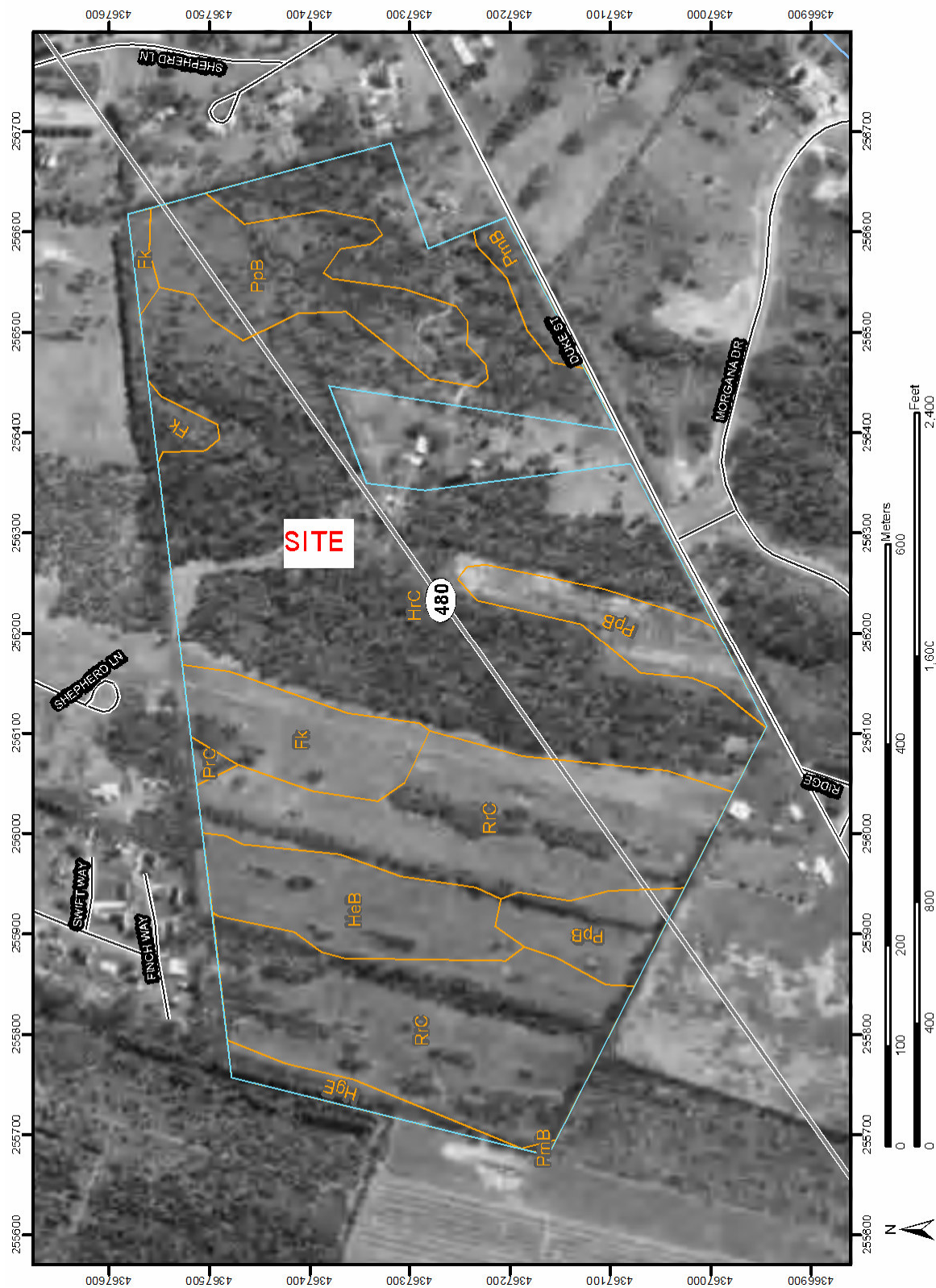


Exhibit 3: Soils map and Soils Information

Based on info. from USDA, Natural Resources Conservation Service



MAP INFORMATION

Original soil survey map sheets were prepared at publication scale. Viewing scale and printing scale, however, may vary from the original. Please rely on the bar scale on each map sheet for proper map measurements.

Source of Map: Natural Resources Conservation Service
Web Soil Survey URL: <http://websoilsurvey.nrcs.usda.gov>
Coordinate System: UTM Zone 18N









































This product is generated from the USDA-NRCS certified data as of the version date(s) listed below.

Soil Survey Area: Jefferson County, West Virginia
Survey Area Data: Version 5, Feb 13, 2007

Date(s) aerial images were photographed: 4/5/1988; 4/11/1988; 2/20/1990

The orthophoto or other base map on which the soil lines were compiled and digitized probably differs from the background imagery displayed on these maps. As a result, some minor shifting of map unit boundaries may be evident.

MAP LEGEND

Area of Interest (AOI)	 Area of Interest (AOI)	 Very Stony Spot
Soils	 Soil Map Units	 Wet Spot
Special Point Features	 Blowout	 Other
 Borrow Pit	 Clay Spot	Special Line Features
 Closed Depression	 Gravel Pit	 Gully
 Gravelly Spot	 Landfill	 Short Steep Slope
 Lava Flow	 Marsh	 Other
 Mine or Quarry	 Miscellaneous Water	Political Features
 Perennial Water	 Rock Outcrop	Municipalities
 Saline Spot	 Sandy Spot	 Cities
 Severely Eroded Spot	 Sinkhole	 Urban Areas
 Slide or Slip	 Sodic Spot	Water Features
 Spoil Area	 Stony Spot	 Oceans
		 Streams and Canals
		Transportation
		 Rails
		Roads
		 Interstate Highways
		 US Routes
		 State Highways
		 Local Roads
		 Other Roads

SOILS Map Unit Legend

Jefferson County, West Virginia (WV037)			
Map Unit Symbol	Map Unit Name	Acres in AOI	Percent of AOI
Fk	Funkstown silt loam	5.8	5.8%
HeB	Hagerstown silt loam, 3 to 8 percent slopes, very rocky	6.1	6.0%
HgE	Hagerstown-Opequon-Rock outcrop complex, 15 to 35 percent slopes	1.5	1.5%
HrC	Hagerstown-Rock outcrop complex, 8 to 15 percent slopes	45.5	45.1%
PmB	Poplimento silt loam, 3 to 8 percent slopes	1.3	1.3%
PpB	Poplimento silt loam, 3 to 8 percent slopes, very rocky	13.4	13.3%
PrC	Poplimento-Rock outcrop complex, 8 to 15 percent slopes	0.3	0.3%
RrC	Ryder-Poplimento complex, 8 to 15 percent slopes, very rocky	27.0	26.8%
Totals for Area of Interest (AOI)		100.9	100.0%

Septic Tank Absorption Fields

Septic Tank Absorption Fields— Summary by Map Unit — Jefferson County, West Virginia						
Map unit symbol	Map unit name	Rating	Component name (percent)	Rating reasons (rating values)	Acres in AOI	Percent of AOI
Fk	Funkstown silt loam	Very limited	Funkstown, silt loam (85%)	Flooding (1.00)	6.6	6.6%
				Depth to saturated zone (1.00)		
				Slow water movement (0.50)		
			Toms, silt loam (10%)	Ponding (1.00)		
				Slow water movement (0.68)		
				Flooding (0.40)		
			Holly, loam (5%)	Flooding (1.00)		
				Ponding (1.00)		
				Seepage, bottom layer (1.00)		
				Slow water movement (0.72)		
HeB	Hagerstown silt loam, 3 to 8 percent slopes, very rocky	Somewhat limited	Hagerstown, silt loam (75%)	Slow water movement (0.46)	6.4	6.4%
HgE	Hagerstown-Opequon-Rock outcrop complex, 15 to 35 percent slopes	Very limited	Hagerstown, silt loam (45%)	Slope (1.00)	1.5	1.5%
				Slow water movement (0.46)		
			Opequon, silty clay loam (30%)	Depth to bedrock (1.00)		
				Slope (1.00)		
			Funkstown, silt loam (5%)	Flooding (1.00)		
HrC	Hagerstown-Rock outcrop complex, 8 to 15 percent slopes	Somewhat limited	Hagerstown, silt loam (65%)	Slow water movement (0.46)	42.5	42.5%
				Slope (0.37)		

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Septic Tank Absorption Fields— Summary by Map Unit — Jefferson County, West Virginia						
Map unit symbol	Map unit name	Rating	Component name (percent)	Rating reasons (rating values)	Acres in AOI	Percent of AOI
PmB	Poplimento silt loam, 3 to 8 percent slopes	Very limited	Poplimento, silt loam (65%)	Slow water movement (1.00)	1.3	1.3%
			Funkstown, silt loam (5%)	Flooding (1.00)		
				Slow water movement (0.50)		
			Ryder, channery silt loam (5%)	Depth to bedrock (1.00)		
				Seepage, bottom layer (1.00)		
PpB	Poplimento silt loam, 3 to 8 percent slopes, very rocky	Very limited	Poplimento, silt loam (65%)	Slow water movement (1.00)	13.5	13.5%
			Ryder, channery silt loam (10%)	Depth to bedrock (1.00)		
				Seepage, bottom layer (1.00)		
			Funkstown, silt loam (5%)	Flooding (1.00)		
				Slow water movement (0.50)		
PrC	Poplimento-Rock outcrop complex, 8 to 15 percent slopes	Very limited	Poplimento, silt loam (60%)	Slow water movement (1.00)	0.4	0.4%
				Slope (0.37)		
			Opequon, silty clay loam (5%)	Depth to bedrock (1.00)		
				Slope (0.37)		
RrC	Ryder-Poplimento complex, 8 to 15 percent slopes, very rocky	Very limited	Ryder, channery silt loam (40%)	Depth to bedrock (1.00)	27.8	27.8%
				Seepage, bottom layer (1.00)		
				Slope (0.37)		
			Poplimento, silt loam (35%)	Slow water movement (1.00)		
				Slope (0.37)		
			Funkstown, silt loam (5%)	Flooding (1.00)		
Slow water movement (0.50)						
Totals for Area of Interest (AOI)					100.0	100.0%

Septic Tank Absorption Fields— Summary by Rating Value		
Rating	Acres in AOI	Percent of AOI
Very limited	51.1	51.1%
Somewhat limited	48.9	48.9%

Description

Septic tank absorption fields are areas in which effluent from a septic tank is distributed into the soil through subsurface tiles or perforated pipe. Only that part of the soil between depths of 24 and 60 inches is evaluated. The ratings are based on the soil properties that affect absorption of the effluent, construction and maintenance of the system, and public health. Saturated hydraulic conductivity (Ksat), depth to a water table, ponding, depth to bedrock or a cemented pan, and flooding affect absorption of the effluent. Stones and boulders, ice, and bedrock or a cemented pan interfere with installation. Subsidence interferes with installation and maintenance. Excessive slope may cause lateral seepage and surfacing of the effluent in downslope areas.

Some soils are underlain by loose sand and gravel or fractured bedrock at a depth of less than 4 feet below the distribution lines. In these soils the absorption field may not adequately filter the effluent, particularly when the system is new. As a result, the ground water may become contaminated.

The ratings are both verbal and numerical. Rating class terms indicate the extent to which the soils are limited by all of the soil features that affect the specified use. "Not limited" indicates that the soil has features that are very favorable for the specified use. Good performance and very low maintenance can be expected. "Somewhat limited" indicates that the soil has features that are moderately favorable for the specified use. The limitations can be overcome or minimized by special planning, design, or installation. Fair performance and moderate maintenance can be expected. "Very limited" indicates that the soil has one or more features that are unfavorable for the specified use. The limitations generally cannot be overcome without major soil reclamation, special design, or expensive installation procedures. Poor performance and high maintenance can be expected.

Numerical ratings indicate the severity of individual limitations. The ratings are shown as decimal fractions ranging from 0.01 to 1.00. They indicate gradations between the point at which a soil feature has the greatest negative impact on the use (1.00) and the point at which the soil feature is not a limitation (0.00).

Rating Options

Aggregation Method: Dominant Condition

Component Percent Cutoff: None Specified

Tie-break Rule: Higher

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Exhibit 4: Sink Holes map (USDA Natural Resources Conservation Service)

Known Sinkholes

Date: 8/22/2007

Customer(s): Dewberry
Shveda Property

Field Office: RANSON SERVICE CENTER
Agency: NRCS

District: EASTERN PANHANDLE CONSERVATION DISTRICT



Legend

● Sink Holes

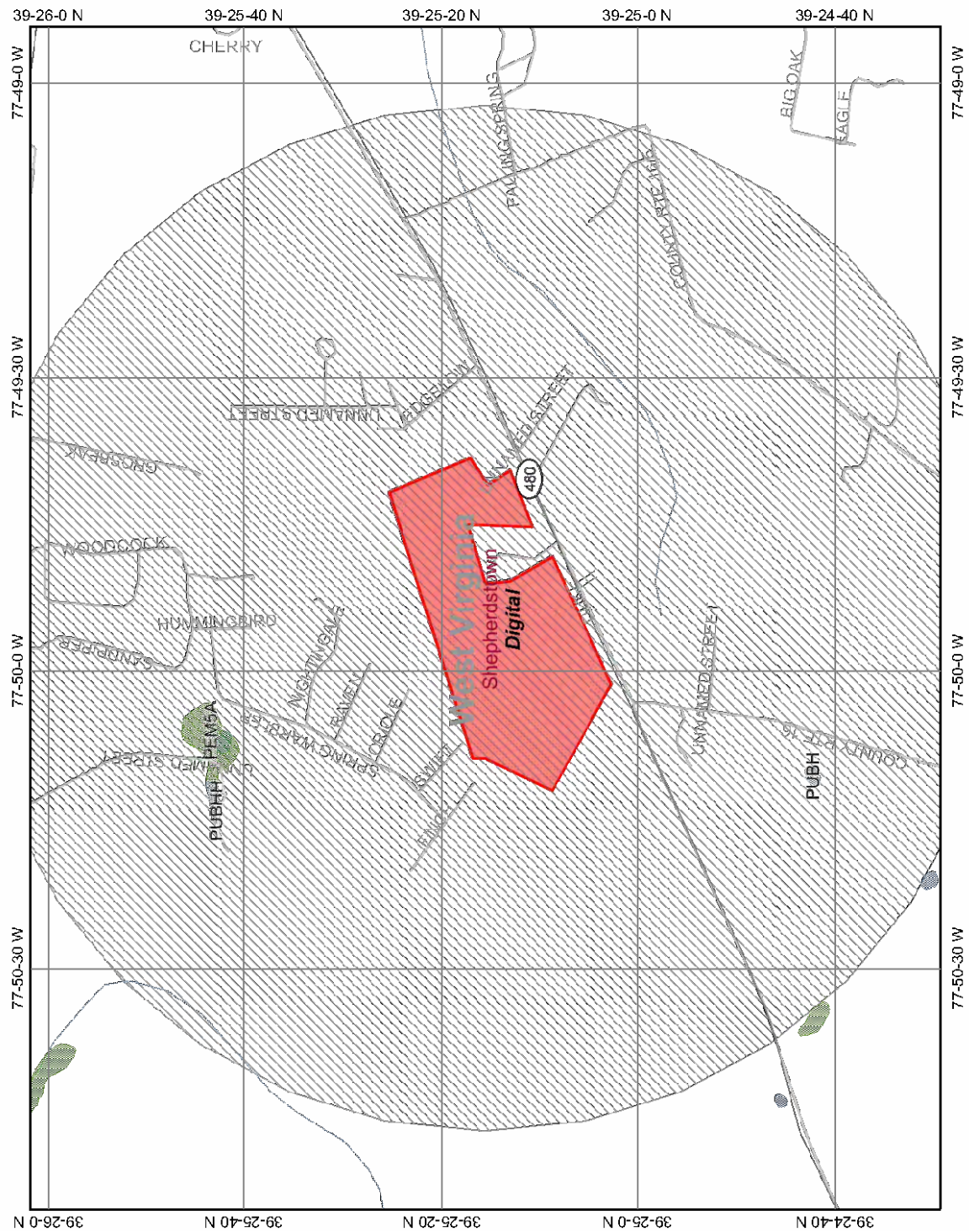


Note:
Sinkhole locations are approximate.
Not all sinkholes have been identified
or located on this map.

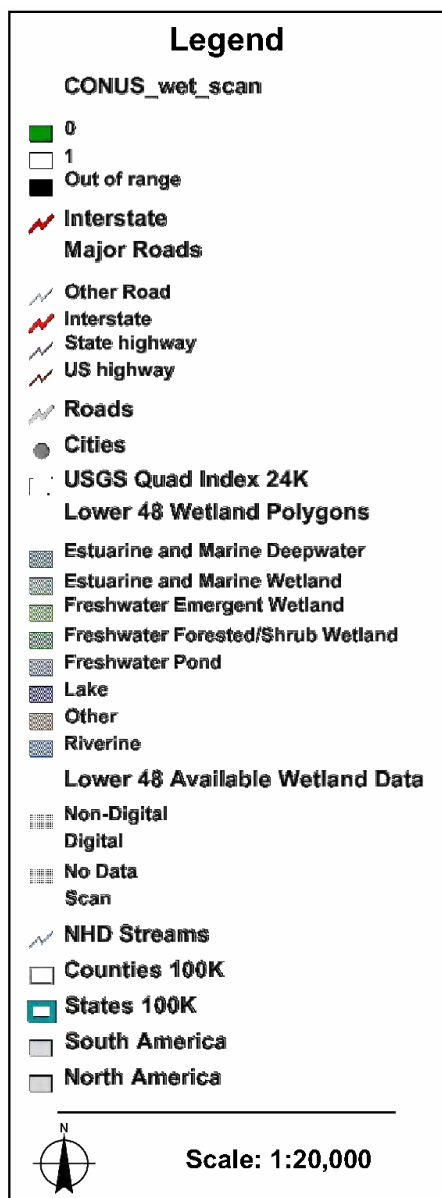
570 0 570 1,140 1,710 2,280 Feet



Exhibit 5: Wetlands Map (U.S. Fish & Wildlife, Wetlands Map)



(see next page for Wetlands Map Legend & Information)



Identify Results

Coordinate Position

Geographic: 39° 25' 16" N, 77° 49' 54" W

Digital Wetland Polygons (Vector)

Wetland Code: PUBHH
 DECODE: [Wetlands Code Interpreter](#)
 WETLAND_TYPE: Freshwater Pond
 ACRES: 0.78139798
 GLOBALID: {F473BB4C-88AA-4E52-8925-875BC4260784}
 AREA: 3162.20545
 LEN: 263.161539342164
 Wetland Code: PSS1A
 DECODE: [Wetlands Code Interpreter](#)
 WETLAND_TYPE: Freshwater Forested/Shrub Wetland
 ACRES: 0.57991535
 GLOBALID: {0DB7A2E3-5850-481E-82CD-25B28524AAE3}
 AREA: 2346.83415
 LEN: 176.05838010484
 Wetland Code: PEM5A
 DECODE: [Wetlands Code Interpreter](#)
 WETLAND_TYPE: Freshwater Emergent Wetland
 ACRES: 1.04757918
 GLOBALID: {72067848-5EF3-477F-9AD2-78FE69289D1A}
 AREA: 4239.40255
 LEN: 274.725045984539
 Wetland Code: PEM5A
 DECODE: [Wetlands Code Interpreter](#)
 WETLAND_TYPE: Freshwater Emergent Wetland
 ACRES: 3.88288825
 GLOBALID: {9E5F8C42-12FA-45FC-9104-BACC37D89A75}
 AREA: 15713.4913
 LEN: 691.049617080599
 Wetland Code: PUBH
 DECODE: [Wetlands Code Interpreter](#)
 WETLAND_TYPE: Freshwater Pond
 ACRES: 0.40931383
 GLOBALID: {BB389FC8-FA21-426B-9A13-1CDC3AE3B69A}
 AREA: 1656.4343
 LEN: 152.046125235377
 Wetland Code: PUBHH
 DECODE: [Wetlands Code Interpreter](#)
 WETLAND_TYPE: Freshwater Pond
 ACRES: 0.44134283
 GLOBALID: {3D9F96FD-890F-421D-B0D7-3671A77F228A}
 AREA: 1786.05105
 LEN: 155.530444018372

EXHIBIT 6 Proposed Covenants

**DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS
OF SHEPHERDSTOWNE ESTATES SUBDIVISION**

This Declaration, made on the date hereinafter set forth by Michael Shveda and Sarah Shveda, hereinafter referred to as “Declarant”,

W I T N E S S E T H:

WHEREAS, Declarant is the owner of certain property in the County of Jefferson, State of West Virginia, which is more particularly described on the legal description attached hereto and made a part hereof as Exhibit “A”.

NOW, THEREFORE, Declarant hereby declares that all of the Property described on Exhibit “A” hereto shall be held, sold and conveyed subject to the following easements, restrictions, covenants and conditions, which are for the purpose of protecting the value and desirability of, and which shall run with the real property and be binding on all parties having any right, title or interest in the Property described on Exhibit “A” hereto, or any part thereof, their heirs, successors and assigns, and shall inure to the benefit of each Owner thereof.

**ARTICLE I
DEFINITIONS**

Section 1. “Association” shall mean and refer to **SHEPHERDSTOWNE ESTATES SUBDIVISION**, Homeowners Association, Inc., a non-stock, non-profit corporation, its successors and assigns.

Section 2. “Owner” shall mean and refer to the record owner, whether a homeowner or building contractor, whether one or more persons or entities, of a fee simple title to any Lot which is a part of the Property, including contract sellers, but excluding those having such interest merely as security for the performance of an obligation.

Section 3. “Property” shall mean and refer to that certain real property described on Exhibit “A” hereto and such additions thereto as may hereafter be brought within the jurisdiction of the Association.

Section 4. “Common Area” shall mean all real property owned or to be owned by the Association for the common use and enjoyment of the Owners, including the private streets.

Section 5. “Lot” shall mean and refer to any plot of land shown upon any recorded subdivision plat of the Property with the exception of the Common Area.

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Section 6. “Declarant” shall mean and refer to Michael Shveda and Sarah Shveda, husband and wife, their successors and assigns, if such successors or assigns should acquire more than one undeveloped Lot from the Declarant for the purpose of development, but only to the extent that any of the rights, reservations, easements, interests, exemptions, privileges and powers of the Declarant are specifically assigned or transferred to such successors or assigns.

Section 7. “Mortgagee” shall mean the holder of any recorded mortgage or the party secured or beneficiary of any recorded deed of trust, encumbering one or more of the Lots. “Mortgagee”, as used herein, shall include deeds of trust. “First Mortgage”, as used herein, shall mean a mortgage with priority over other mortgages. As used in this Declaration, the term “Mortgagee” shall mean any mortgagee and shall not be limited to institutional mortgagees. As used in this Declaration, the term “institutional mortgagee” or “institutional holder” shall include banks, trust companies, insurance companies, mortgage insurance companies, savings and loan associations, trusts, mutual savings banks, credit unions, pension funds, mortgage companies, Federal National Mortgage Association (“FNMA”), Federal Home Loan Mortgage Corporation (“FHLMC”), all corporations and any agency or department of the United States Government or of any state or municipal government. As used in this Declaration, the term “holder” or “mortgagee” shall include the parties secured by any deed of trust or any beneficiary thereof.

ARTICLE II PROPERTY RIGHTS

Section 1. Owner’s Easements of Enjoyment. Every Owner shall have a right and easement of enjoyment in and to the Common Area, including an easement for the use and enjoyment of the private streets which shall be appurtenant to and shall pass with the title to every Lot, subject to the following provisions:

a) The right of the Association to suspend the voting rights of an Owner for any period during which an assessment against his or her Lot remains unpaid; and for a period not to exceed sixty (60) days from an infraction of its published rules and regulations;

b) The right of the Association to dedicate or transfer all or any part of the common areas or community facilities to any public or municipal agency, authority or utility for purposes consistent with the purpose of this Declaration and subject to such conditions as may be agreed to by the members and further subject to the then existing laws and applicable ordinances; provided, however, that no such dedication or transfer or determination as to the purposes or as to the conditions thereof, shall be effective unless two-thirds (2/3) of each class of the then voting members of the Association consent to such dedication, transfer, purpose and conditions, at any special meeting of the members duly called for such purpose;

c) The right of the Association to establish uniform rules and regulations pertaining to the use of the Common Area and the facilities thereon;

d) The right of the Declarant (and its sales agents and representatives) to the non-exclusive use of the Common Area for display and exhibit purposes, which right Declarant hereby reserves, provided, however, that such use shall not be for a period of more than three (3)

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years after the conveyance of the Common Area to the Association, or the sale of all the residential Lots within the Property, whichever is the earlier; provided, further that no such use by Declarant or its sales agents or representatives shall otherwise restrict the members in their use and enjoyment of the Common Area or facilities thereon;

e) The right of the Association, acting by and through its Board of Directors, to grant licenses, rights of way and easements for access or for the construction, reconstruction, maintenance and repair of any utility or appurtenances, whether public or private, to any municipal agency, public utility, the Declarant or any other person; provided, however, that no such licenses, rights of way or easements shall be unreasonably and permanently inconsistent with the rights of the members to use and enjoyment of the common areas and community facilities; and

f) The right of the Association, acting by and through its Board of Directors, to enter into agreements whereby the Association acquires leaseholds, memberships or other possessory or use interests in real or personal property for the purpose of promoting the enjoyment, recreation or welfare of the members of the Association and to declare expenses incurred in connection therewith to be common expenses of the Association.

Section 2. Delegation of Use. Any Owner may delegate, in accordance with the By-Laws, his or her right of enjoyment to the Common Area to the members of his or her family, tenants, or contract purchasers who reside on the Property.

ARTICLE III MEMBERSHIP AND VOTING RIGHTS

Section 1. Membership. Every Owner of a lot, whether homeowner or building contractor, which is subject to assessment shall be a member of the Association. Membership shall be appurtenant to and may not be separated from ownership of any Lot which is subject to assessment.

Section 2. Voting Rights. The Association shall have two (2) classes of voting membership.

Class A. Class A members shall be all Owners with the exception of the Declarant and shall be entitled to one (1) vote for each Lot owned. When more than one (1) person holds an interest in any Lot, all persons shall be members. The vote for such Lot shall be exercised as they among themselves determine, but in no event shall more than one (1) vote be cast with respect to any Lot.

Class B. The Class B member shall be the Declarant and shall be entitled to three (3) votes for each Lot owned. The Class B membership shall cease and be converted to a Class A membership on the happening of either of the following events, whichever occurs earlier:

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(i) One hundred twenty (120) days following the date on which the total votes outstanding in Class A membership equal the total votes outstanding in the Class B membership; or

(ii) Fifteen (15) years from the date of recordation by the Declarant of this Declaration; provided, however, that if Declarant is delayed in the improvement and development of the Property on account of a sewer, water or building permit moratorium or other cause beyond the Declarant's control, then the aforesaid fifteen (15) year period shall be extended by a period of time equal to the length of the delays or an additional five (5) years, whichever is less.

Notwithstanding the foregoing, in the event of annexation of additional properties of Michael Shveda and Sarah Shveda, membership shall be revived with respect to all lots owned by the Declarant on the Property, which Class B membership shall cease and be converted to Class A membership, on the happening of either of the following events, whichever occurs first:

(i) One hundred twenty (120) days following the date on which the total votes outstanding in Class A membership equal the total votes outstanding in the Class B membership; or

(ii) Fifteen (15) years from the date of recordation by the Declarant of this Declaration; provided, however, that if Declarant is delayed in the improvement and development of the Property on account of a sewer, water or building permit moratorium or other cause beyond the Declarant's control, then the aforesaid fifteen (15) year period shall be extended by a period of time equal to the length of the delays or an additional five (5) years, whichever is less.

ARTICLE IV COVENANT FOR MAINTENANCE ASSESSMENTS

Section 1. Creation of the Lien and Personal Obligation of Assessments. The Declarant, for each Lot owned within the Property, hereby covenants and each Owner of any Lot by acceptance of a deed therefore, whether or not it shall be so expressed in such deed, is deemed to covenant and agree to pay the Association: (1) annual assessments or charges, and (2) special assessments for capital improvements, such assessments to be established and collected as hereinafter provided. The annual and special assessments, together with interest, costs, and reasonable attorney's fees, shall be a charge on the Lot (including all improvements thereon), and shall be a continuing lien upon the Property against which each such assessment is made. Each such assessment, together with interest, costs, and reasonable attorney's fees, shall also be the personal obligation of the person who was the Owner of such property at the time when the assessment fell due.

The personal obligation for delinquent assessments shall not pass to his or her successors in title unless expressly assumed by such successors in title.

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Section 2. Purpose of Assessments. The assessments levied by the Association shall be used exclusively to promote the recreation, health, safety, and welfare of the residents in the Property and for the improvement and maintenance of the Common Area.

Section 3. Basis of and Maximum Annual Assessments. Until January 1 of the year immediately following the conveyance of the first Lot to an Owner, the maximum annual assessment shall be \$300.00 for Class A Members. The Class B member covenants and agrees to maintain the Common Area without cost to the Association and to fund any budget deficits until the Class B member (Declarant) has conveyed 50% of said Lots to Owners other than Declarant.

a) From and after January 1 of the year immediately following the conveyance of the first Lot to an Owner, the maximum annual assessment may be increased by the Board of Directors of the Association, without a vote of the Class A membership, by an amount equal to seven percent (7%) of the maximum annual assessment for the preceding year plus the amount by which any ad valorem real estate taxes and insurance premiums payable by the Association have increased over amounts payable for the same or similar items for the previous year.

b) From and after January 1 of the year immediately following the conveyance of the first Lot to an Owner, the maximum annual assessment may be increased seven percent (7%) by vote of at least fifty percent (50%) of each class of members who are voting, in person or by proxy, at a meeting duly called for this purpose.

c) The Board of Directors may from time to time fix the annual assessment at an amount not in excess of the maximum.

Section 4. Special Assessments for Capital Improvements. In addition to the annual assessments authorized above, the Association may levy, in any assessment year, a special assessment applicable to that year only for the purpose of defraying, in whole or in part, the cost of any construction, reconstruction, repair or replacement of a capital improvement upon the Common Area, including fixtures and personal property related thereto, provided that any such assessment shall have the assent of at least two thirds (2/3) of the votes of each class of members who are voting in person or by proxy at a meeting duly called for this purpose.

Section 5. Notwithstanding any provisions of this Declaration to the contrary, the annual average common expense liability of all owners, which includes annual and special assessments, exclusive of optional user fees and any insurance premiums paid by the association, may not exceed the maximum amount authorized as an exception to the West Virginia Common Interest Ownership Act as that amount is adjusted pursuant to Chapter 36B, Article 1, Section 114 of the West Virginia Code.

Section 6. Notice and Quorum for any Action Authorized Under Section 3 and 4. Written notice of any meeting called for the purpose of taking any action authorized under Section 3 or 4 shall be sent to all members not less than thirty (30) days nor more than fifty (50) days in advance of the meeting. At the first such meeting called, the presence of members or of proxies entitled to cast sixty percent (60%) of all the votes of each class of membership shall constitute a quorum. If the required quorum is not present, another meeting may be called subject

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to the same notice requirement and the required quorum at the subsequent meeting shall be one-half (1/2) of the required quorum at the preceding meeting. No such subsequent meeting shall be held more than fifty (50) days following the preceding month.

Section 7. Uniform Rate of Assessment. Except as otherwise provided in Section 3 of this Article IV, both annual and special assessments must be fixed at a uniform rate for all Lots and may be collected in advance on a monthly or annual basis, at the option of the Owner.

Section 8. Date of Commencement of Annual Assessments: Due Dates. The annual assessments provided for herein shall commence as to all Lots on the first day of the month following the first conveyance of a Lot to a Class A member. The first annual assessment shall be adjusted according to the number of months remaining in the calendar year. The Board of Directors shall fix the amount of the annual assessment against each Lot at least thirty (30) days in advance of each annual assessment period. Written notice of the annual assessment shall be sent to every Owner subject thereto. The due dates shall be established by the Board of Directors. The Association shall, upon demand, and for a reasonable charge, furnish a certificate signed by an officer for the Association setting forth whether the assessments of a specified lot have been paid. A properly executed certificate of the Association with the status of assessments of the Lots shall be binding on the Association on the date of its issuance.

Section 9. Subordination of a lien for assessments to Mortgage Liens. Liens for the assessments provided for herein shall be subordinate to a lien of any first mortgage or deed of trust. Sale or transfer of any Lot shall not affect the assessment lien. However, the sale or transfer of any Lot pursuant to mortgage or deed of trust foreclosure or any proceeding in lieu thereof, shall extinguish the lien of such assessments as to payments which become due prior to such sale or transfer. No sale or transfer shall relieve such Lot from liability for any assessments thereafter becoming due or from the lien thereof. No amendment to this Section shall affect the rights of the holder of any first mortgage on any Lot (or the indebtedness secured thereby); recorded prior to recordation of such amendment unless the holder thereof (or the indebtedness secured thereby) shall join in the execution of such amendment.

Section 10. Exempt Property. The following property subject to this Declaration shall be exempt from the assessments created herein:

- a) All properties dedicated to and accepted by a local public authority; and
- b) All Common Areas.

Section 11. Reserves for Replacements. The Association may establish and maintain a reserve fund for replacements of the Common Area by the allocation and payment monthly to such reserve fund of an amount to be designated from time to time by the Board of Directors. Such fund shall be conclusively deemed to be a common expense of the Association and may be deposited in any banking institution, the accounts of which are insured by any State or by any agency of the United States of America or may, in the discretion of the Board of Directors, be

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invested in obligations of, or fully guaranteed as to principal by, the United States of America. The reserve for replacements of the Common Areas and community facilities may be expended only for the purpose of effecting the replacement of the Common Areas, major repairs to any equipment replacement, and for start-up expenses and operating contingencies of a nonrecurring nature relating to the Common Areas and community facilities. The Association may establish such other reserves for such other purposes as the Board of Directors may from time to time consider to be necessary or appropriate. The proportional interest of any member in such reserves shall be considered an appurtenance of his or her Lot and shall not be separately withdrawn, assigned to transferred or otherwise separated from the Lot to which it appertains and shall be deemed to be transferred with such Lot.

ARTICLE V ARCHITECTURAL CONTROL

No dwelling shall be commenced, erected or maintained upon the Property, nor shall any exterior addition to or change or alteration therein be made (including change in color) until the plans and specifications showing the nature, kind, shape, height, materials, and location of the same shall have been submitted in writing and approved in writing as to harmony of external design and location in relation to surrounding structures and topography by the Board of Directors of the Association, or by any architectural review committee composed of three (3) or more representatives appointed by the Board. In the event said Board, or its designated committee, fails to approve or disapprove such design and location in writing within thirty (30) days after said plans and specifications have been submitted to it in writing, approval will not be required and this Article V will be deemed to have been fully complied with. Notwithstanding any provision of this Declaration to the contrary, the provisions of this Article V shall not be applicable to the Declarant or any part of the Property owned by the Declarant, its successors or assigns.

ARTICLE VI USE RESTRICTIONS

In addition to all other covenants contained herein, the use of the Property and each Lot therein is subject to the following:

Section 1. No lot shall be split, divided, or subdivided by sale, resale, gift devise, transfer or otherwise. No more than one dwelling unit may be erected on any one (1) lot. The Lots shall be used for residential purposes exclusively, and no building shall be erected, altered, placed or permitted to remain on any such Lot other than one used as a single-family dwelling. Nothing contained in this Article VI or elsewhere in this Declaration shall be construed to prohibit the Declarant from the use of any Lot or dwelling, or improvement thereon, for promotional or display purposes, or as "model homes", a sales office, or the like.

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Section 2. Except as may be permitted by Section 1 of this Article VI, no part of the Property shall ever be used or caused to be used or allowed or authorized in any way, directly or indirectly, for any business, commercial, manufacturing, mercantile, storing, vending or other such non-residential purposes, provided that, Declarant may use the Property for model home sites and display and sales offices during the construction and sales period. This section shall not apply to the Declarant or its officers and directors.

Section 3. No sign or billboard of any kind shall be displayed to the public view or any portion of the Property or any Lot, except one (1) sign for each building site, of not more than eighteen inches (18") by twenty-four inches (24"), advertising the Property for sale or rent, except signs used by Declarant to advertise the Property during the construction and sales period. Nothing in this section may be construed to prohibit political signs, provided such signs do not exceed six (6) square feet in area.

Section 4. No noxious or offensive activity shall be carried on upon any Lot or any part of the Property, nor shall anything be done thereupon which may be, or may become, an annoyance or nuisance to the neighborhood, or which shall in anyway unreasonably interfere with the quiet enjoyment of each of the Owners of his or her respective dwelling unit, or which shall in any way increase the rate of insurance.

Section 5. No structure other than a residential dwelling and one garage shall exist on any Lot. The garage may be attached or not attached to the residential dwelling, and be constructed of the identical architectural style and the identical exterior finish materials of the dwelling on said lot. No structure of a temporary character, trailer, basement, tent, shack, garage, barn or other out-building shall be used on any Lot or at any time as a residence either temporarily or permanently. Except for Declarant's construction purposes, no RV, trailer, camper, ATV, boat or similar equipment shall be permitted to remain on any lot or portion of the Property, unless parked or stored in a garage and out of view from an adjoining lot or street.

Section 6. No motorized vehicle except lawn care equipment may be used or maintained on the yards of any Lot and no unlicensed vehicles are allowed on the Property unless kept inside a garage. No motorized vehicles (with the exception of a vehicle used by a handicapped person) will be permitted in the Common Areas. The Board of Directors shall have the right to tow any vehicle(s), the keeping or parking of which in the Common Area violates this Declaration, upon forty-eight (48) hours notice.

Section 7. No junk vehicle or other vehicle, whether motorized or self-propelled, on which current registration plates are not displayed, shall be kept within any Lot or on any part of the Common Area, nor shall the same be ridden upon any street, within the Property, nor upon any lot, open area or trail within the subdivision. The Board of Directors shall have the right to tow any vehicle(s), the keeping or parking of which in the Common Areas violates this Declaration, upon forty-eight (48) hours notice. The repair or extraordinary maintenance of automobiles or other vehicles shall not be carried out on any of the Lots or Common Areas.

Shveda (Shepherdstowne Estates) CIS

Section 8. No animals, livestock or poultry of any kind shall be raised, bred or kept on any Lot, except that dogs, cats or other household pets may be kept on the Lot, subject to such rules and regulations as may be adopted by the Association and provided they are not kept, bred or maintained for any commercial purpose, or in unreasonable numbers. Notwithstanding the foregoing, no animals may be kept on the Property which results in an annoyance or are obnoxious to residents in the vicinity.

Section 9. All rubbish, trash and garbage shall be regularly removed from the Property, and shall not be allowed to accumulate thereon. No burning of refuse shall be permitted, excepting outdoor barbeques used solely for the preparation of food. Any outdoor fireplaces shall be provided with fire screens. All refuse containers, firewood piles, storage areas and machinery and equipment shall be prohibited upon any Lot unless obscured from view of adjoining Lots and streets by an appropriate screen approved by the Architectural Review Committee. Nothing herein shall be deemed to apply to the storage on the Property by Declarant of building materials during, and for use in, the construction of the improvements on the Property.

Section 10. No radio or television receiving or transmitting antennae or external apparatus shall be installed on any Lot with the exception that small satellite television dishes are permitted, not to exceed 20" in diameter. Normal radio and television installations wholly within a building are permitted.

Section 11. All Owners or occupants shall abide by the By-Laws and any rules and regulations adopted by the Association.

Section 12. Any lease agreement between a Lot Owner and a lessee shall provide that the terms of the lease are subject in all respects to the provisions of this Declaration, and the Articles of Incorporation and By-Laws of the Association, and that any failure by the lessee to comply with the terms of such documents shall be a default under the lease. Owners are liable for the actions of their lessees and will ensure the compliance of all Association Covenants. All such leases shall be in writing and shall be for a term of not less than six (6) months.

Section 13. No garage shall be utilized for other than the purpose of storage and maintenance of vehicles and other types of items normally stored in garages in first-class residential neighborhoods. Garages may not be converted to living space and must be used primarily for vehicle storage. To the extent an Owner owns or has the beneficial use of any vehicles while on the Property all such vehicles shall not be larger than the garage will accommodate with the garage door closed.

Section 14. Hunting, whether with firearms or bow hunting, and the discharge of firearms is prohibited on any Lot or any Common Areas of the Subdivision.

Section 15. Installation of recreational equipment such as basketball boards, swing sets, and the like, shall be limited to rear yards only after approval by the Architectural Review Committee.

Shveda (Shepherdstowne Estates) CIS

Section 16. Landscape designs shall be approved in writing by either the Declarant its successors and assigns or the Architectural Review Committee.

Section 17. All storage tanks for use in connection with the property, including tanks for the storage of propane gas or other fuels used exclusively for residential purposes, must be buried.

Section 18. None of the foregoing restrictions shall be applicable to the activities of Declarant, its officers, employees, agents or assigns, in their development, marketing and sale of Lots or other parcels within the Property.

Section 19. During reasonable hours the Declarant, any member of the Architectural Review Committee, or member of the Board of Directors, or any other representative of any of them, shall have the right to enter upon and inspect any Lot for the purpose of ascertaining whether or not the provision of these restrictions have been or are being complied with, and such persons shall not be deemed guilty of trespass by reason of such entry.

ARTICLE VII EXTERIOR MAINTENANCE

Each Owner shall keep each Lot owned by him or her, and all improvements therein or to, the maintenance of lawns and the painting (or other appropriate external care) of all dwellings all in a manner and with such frequency as is consistent with good property management. In the event an Owner of any Lot in the Property shall fail to maintain the Lot and the improvements situated thereon, as provided in the By-Laws and approved by a vote of the Board of Directors, the Board of Directors or its agents shall have the right to enter upon said Lot to correct drainage and to repair, maintain and restore the Lot and the exterior of the building and any other improvements erected thereon. All costs related to such correction, repair or restoration shall become a lien upon such Lots and such lien may be enforced in the same manner as an annual assessment levied in accordance with Article IV hereof. Any such lien shall be subordinate to the lien of any first mortgage or deed or trust. Sale or transfer of any Lot shall not affect such lien. However, the sale or transfer of any Lot pursuant to mortgage or deed of trust foreclosure or any proceeding in lieu thereof, shall extinguish such lien as to payments which become due prior to such sale or transfer. No sale or transfer shall relieve such Lot from liability for any assessments thereafter becoming due or from the lien thereof. No amendment to this Article VII shall affect the rights of the holder of any first mortgage on any Lot (of the indebtedness secured thereby) recorded prior to the recordation of such amendment unless the holder thereof (or the indebtedness secured thereby) shall join in the execution of such amendment.

ARTICLE VIII MANAGEMENT

Section 1. Management Agent. The Board of Directors shall be required to employ for the Association, Michael Shveda and Sarah Shveda, or their assigns as management agent or

Shveda (Shepherdstowne Estates) CIS

manager (the "Management Agent") at a rate of compensation established by the Management Agent to perform such duties and services as the Board of Directors shall from time to time authorize in writing.

Section 2. Duration of Management Agreement. The management agreement entered into by the Association shall provide inter alia that such agreement may be terminated for cause by the Management Agent on thirty (30) days written notice thereof to the Board of Directors and without cause on ninety (90) days written notice to the Board of Directors. The term of any such management agreement may be renewable for successive three (3) year periods.

Section 3. Limitation of Liability. The Association shall not be liable for any failure of any services to be obtained by the Association or paid for out of the common expense funds, or for injury or damage to person or property caused by the elements or resulting from water which may leak or flow from any portion of the Common Areas or from any wire, pipe, drain, conduit, or the like. The Association shall not be liable to any member for loss or damage, by theft or otherwise, of articles which may be stored upon the Common Areas. No diminution or abatement of assessments, as herein elsewhere provided for, shall be claimed or allowed for inconvenience or discomfort arising from the making of repairs or improvements to the Common Areas, or from any action taken by the Association to comply with any of the provisions of this Declaration or with any law or ordinance or with the order or directive of any municipal or other governmental authority.

ARTICLE IX GENERAL PROVISIONS

Section 1. Nonpayment of Assessments.

(a) Notice of Default. Any Assessment installment not paid within thirty (30) days after the due date shall be delinquent. Thereupon, the association, or the managing agent at the request of the Board of Directors, shall provide Notice of such delinquency and may, at its option,

(i) declare the entire balance of such Annual or Special Assessment due and payable in full;

(ii) charge interest from the due date at a percent rate no greater than is permissible by law, such rate to be set by the Board of Directors for each assessment period;

(iii) charge a late charge in an amount equal to five percent (5%) of the delinquent installment or such other amount as may be set by Board of Directors;

(iv) charge all costs, including attorneys fees, to provide notice of default and/or to collect delinquent payment;

Shveda (Shepherdstowne Estates) CIS

(v) give Notice to the Owner that in the event payment with accrued interest and penalties is not paid within thirty (30) days from the date of such Notice, then the expressed contractual lien provided for herein shall be filed or foreclosed, or both; and

(vi) upon Registered Notice to the Owner of the Lot, suspend the right of such owner to vote until the assessment, accrued interest, penalties and costs of collection are paid in full. Once perfected, the lien for assessments provided for herein shall be prior to all other subsequent liens and encumbrances except:

- (i) real estate tax liens on the Lot,
- (ii) liens and encumbrances recorded prior to the recordation of this Declaration, and
- (iii) sums paid on and owing under any mortgage or deed of trust recorded prior to the perfection of said lien.

The lien evidenced hereby shall bind the Lot(s) herein described in the hand of the then Owner thereof, his or her heirs, devisees, personal representatives, and the personal obligation of the Member to pay such assessment shall, in addition, remain his or her personal obligation for the statutory period.

(b) Remedies Cumulative. No remedy reserved to the Association herein is intended to be exclusive of any other remedy or remedies, and each and every remedy shall be cumulative, and shall be in addition to every other remedy given hereunder or now or hereafter existing at law, in equity or by statute.

(c) Collection Costs. If default is made in the payment of any assessment payable hereunder, then the Owner who is so delinquent shall pay to the Association, upon demand, all costs of collection, including the Association's attorney's fees, whether suit is brought or not.

(d) Prepayment. Any member may prepay one or more installments of any Annual Assessments levied by the Association, without penalty or interest.

Section 2. Enforcement. The Association, or any Owner, or any mortgagee of any Lot shall have the right to enforce, by any proceeding at law and/or in equity, all restrictions, conditions, covenants, reservations, liens, charges or other obligations or terms now or hereafter imposed by the provisions of this Declaration, or the Articles of Incorporation or By-Laws of the Association. Failure by the Association or by any Owner or by any mortgagee of any Lot to enforce any covenant or restriction herein contained or any provision of the By-Laws or Articles of Incorporation of the Association shall in no event be deemed a waiver of the right to do so thereafter. There shall be and there is hereby created and declared to be a conclusive presumption that any violation or breach or attempted violation or breach of any of the within covenants or restrictions or any provision of the By-Laws or Articles of Incorporation of the Association cannot be adequately remedied by action at law or exclusively by recovery of damages.

Shveda (Shepherdstowne Estates) CIS

Section 3. Severability. Invalidation of any one of these covenants or restrictions by judgment or court order shall in no way affect any other provisions, which shall remain in full force and effect.

Section 4. Duration. Except where permanent easements or other permanent rights or interest are herein created, the covenants and restrictions and any duly appointed amendments thereto of the Declaration shall run with and bind the land for a term of thirty (30) years from the date this Declaration is recorded, after which time they shall be automatically extended for successive periods of ten (10) years each unless terminated by a vote of a majority of the members of the Association.

Section 5. Amendment.

(a) By Owners. Subject to the other limitations set forth in this Declaration, this Declaration may be amended during the first twenty (20) year period after it is recorded only by an instrument executed and acknowledged by not less than ninety percent (90%) of Owners. After the first twenty (20) years, this Declaration may be amended by an instrument executed and acknowledged by not less than seventy-five percent (75%) of the Owners.

(b) By Declarant. The Declarant shall have the right, for a period of fifteen (15) years following the date of recordation of this Declaration, without the consent of the Members of the Association or any other party, to modify, amend or change any provision of this Declaration, including but not limited to, errors and omissions.

The amendment instrument shall be recorded among the Land Records for the jurisdiction in which this Declaration is recorded. Unless a later date is specified in any such instrument, any amendment to this Declaration shall become effective on this date of recording.

Section 7. Casualty Losses. In the event of substantial damage or destruction to any of the Common Areas or community facilities, the Board of Directors of the Association shall give prompt written notice of such damage or destruction to the holders of all first mortgages of record on the Lots. No provision of the Declaration of the Articles of Incorporation or these By-Laws of the Association shall entitle any member to any priority over the holder of any first mortgage of record on his or her Lot with respect to the distribution to such member of any insurance proceeds paid or payable on account of any damage or destruction of any of the Common Areas or community facilities.

Section 8. Condemnation of Eminent Domain. In the event any part of the Common Areas and community facilities is made the subject matter of any condemnation or eminent domain proceeding, or is otherwise sought to be acquired by any condemning authority, then the Board of Directors of the Association shall give prompt written notices of any such proceeding or proposed acquisition to the holders of all first mortgages of record on the Lots. No provision of this Declaration or the Articles of Incorporation or the By-Laws of the Association shall entitle any member to any priority over the holder of any first mortgage of record on his or

Shveda (Shepherdstowne Estates) CIS

her Lot with respect to the distribution to such member of the proceeds of any condemnation or settlement relating to a taking of any of the Common Areas and community facilities.

Section 9. Captions and Gender. The captions contained in this Declaration are for convenience only and are not a part of this Declaration and are not intended in anyway to limit or enlarge the terms and provisions of this Declaration. Whenever the context so requires, the male shall include all genders and the singular shall include the plural.

ARTICLE X EASEMENTS, ETC.

Section 1. General Easement. The Declarant reserves the right and easement to the use of all areas owned or to be owned by the Association, and any Lot or any portion thereof, as may be needed for repair, maintenance or construction on such Lot or any Lot or any Common Area.

Section 2. Crossover Easement. If the Owner (including the Declarant) of any Lot must, in order to make responsible repairs or improvements to a building on his or her Lot, enter or cross any area owned or to be owned by the Association, or a Lot of another Owner, such Owner shall have an easement to do so, provided that said Owner shall use the most direct, feasible rout in entering and crossing over such an area and shall restore the surface so entered or crossed to its original condition, at the expense of the said Owner, and further provided that such easement shall not exist on the land of any other Lot Owner if the purpose for the entrance or crossing is one requiring, by virtue of Article V of this Declaration, approval of either the Board of Directors or the Architectural Review Committee of the Association, unless such approval has been given.

Section 3. Blanket Easement. An easement is hereby retained in favor of the Declarant and the Association over the Lots and any area owned or to be owned by the Association for the construction of a common cable television system, a common sprinkler, or any other utilities or items for the common enjoyment and/or benefit of the Owners. An easement is further granted for the purpose of the repair and maintenance of any item so constructed. Any entry upon any Lot or any area owned or to be owned by the Association to effectuate the foregoing purposes shall not be deemed trespass. Each Owner covenants not to damage or destroy any portion of an item so constructed and shall hold the Association and/or Declarant harmless from the cost of repairing or replacing any portion damaged or destroyed by such Owner, his or her family, guests or invitees.

Section 4. Easement and Right of Entry of Law Enforcement Officials, Etc. An easement and right of entry through and upon the Property is hereby granted to law enforcement officers, rescue squad personnel, fire fighting and other emergency personnel of the jurisdiction in which the Property is located, and to vehicles operated by said personnel while in the pursuit of their duties. Said emergency personnel shall also have the right of enforcement of cleared emergency vehicle access on roadways and driveways on the Property.

Shveda (Shepherdstowne Estates) CIS

Section 5. Utility Easements. Easements over the Property for the installation and maintenance of electric, telephone, cable television, gas or roof drains are hereby reserved by the Declarant, together with the right to enter onto the Common Area for the purpose of completing such improvements, thereon, and on the Lots, and for the further purpose of correcting any defects in workmanship or materials on the Property or the improvements thereon.

The rights and duties with respect to cable television, electricity, gas and telephone lines and facilities in favor of the Association shall be governed by the following:

a) whenever roof drains connected directly to electricity, gas, cable television or telephone connections, lines, cables, or an portion thereof, are or have been installed within the Property, the Owner of any Lot, or the Association shall have the right, and are hereby granted an easement to the extent necessary thereof, to enter upon or have a utility company enter upon any portion of the Property in which said installations lie, to repair, replace and generally maintain said installations.

b) the right granted in Subparagraph (a) above shall be only to the extent necessary to entitle the Owner or Association serviced by said installation to its full and reasonable use and enjoyment and provided further that anyone exercising said right shall be responsible for restoring the surface of the easement area so used to its condition prior to such use.

c) In the event of a dispute between Owners with respect to the repair or rebuilding of said connections, or with respect to sharing of the cost thereof, upon written request of one such Owners addressed to the Association, the matter shall be submitted to its Board of Directors, who shall decide the dispute and the decision of the Board shall be final and conclusive on the parties.

Section 6. Drainage Easement. Each Owner covenants to provide such easements for landscape, drainage and water flow as the contours of the Property and the arrangement of buildings by Declarant thereon requires. Declarant reserves an easement over all Lots and Common Area for the purpose of correcting any drainage deficiencies.

Section 7. Encroachment Easement. Each lot within the Property is hereby declared to have an easement, not exceeding one foot (1') in width, over all adjoining Lots for the purpose of accommodating any encroachment due to engineering errors, errors in original construction, settlement or shifting of the buildings, roof overhangs, gutters, architectural or other appendages, draining of rain water from roofs, or any other similar cause. There shall be valid easements for the maintenance of said encroachments so long as they shall exist, and the rights and obligations of Owners shall not be altered in any way by said encroachment, settlement or shifting; provided, however, that in no event shall a valid easement for encroachment be created in favor of an Owner or Owners if said encroachment occurred due to the willful misconduct of said Owner or Owners. In the event a structure on any Lot is partially or totally destroyed and then repaired or rebuilt, the Owners of each Lot agree that minor encroachments over adjoining Lots shall be permitted and that there shall be valid easements for the maintenance of said encroachments as long as they shall exist.

**ARTICLE XI
DISSOLUTION OF ASSOCIATION**

The owners of Lots shall not dissolve or disband the Association, nor shall the Association dispose of any common open space by sale, or otherwise, except to an organization conceived and organized to own and maintain the common open space, without first offering to dedicate the same to the jurisdiction in which the Property is located, or such other appropriate governmental agency.

IN WITNESS WHEREOF, the undersigned, being the Declarant herein, has executed this instrument on the _____ day of _____, 2007.

_____(SEAL)
Michael Shveda

_____(SEAL)
Sarah Shveda

STATE OF WEST VIRGINIA
COUNTY OF JEFFERSON, to wit:

The foregoing instrument was acknowledged before me this _____ day of _____, 2007, by MICHAEL SHVEDA and SARAH SHVEDA, husband and wife.

My commission expires:

(Affix Notary Seal)

Notary Public

THIS INSTRUMENT PREPARED BY: Peter L. Chakmakian, Attorney at Law, P.O. Box 547,
Charles Town, WV 25414

EXHIBIT 7 LETTERS FROM AGENCIES

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DNR Letter



DIVISION OF NATURAL RESOURCES

Wildlife Resources Section

Operations Center

P.O. Box 67

Elkins, West Virginia 26241-3235

Telephone (304) 637-0245

Fax (304) 637-0250

August 30, 2007

Joe Manchin III
Governor

Frank Jezioro
Director

Ms. Leesa Davis
Dewberry & Davis, LLC
P.O. Box 35
Charles Town, WV 25414

Dear Ms. Davis:

We have reviewed our files for information on rare, threatened and endangered (RTE) species and sensitive habitats for the area of the proposed Shveda residential cluster subdivision in Jefferson County, WV.

We have no known records of any RTE species or sensitive habitats within the project area. The Wildlife Resources Section knows of no surveys that have been conducted in the area for rare species or rare species habitat. Consequently, this response is based on information currently available and should not be considered a comprehensive survey of the area under review.

In addition, this response may fulfill your obligation for a permitting process for the presence of RTE species at the state level. This response and/or the data provided does not constitute an approval by the Division of Natural Resources (DNR) to proceed with a project without satisfying any and all additional required permits or approvals from DNR or other local, state or federal agencies.

Thank you for your inquiry, and should you have any questions please feel free to contact me at the above number, extension 2048. Enclosed please find an invoice.

Sincerely,

A handwritten signature in black ink, appearing to read "Barbara Sargent".

Barbara Sargent
Environmental Resources Specialist
Natural Heritage Program

enclosure

u:\BDS\Inv\Dewberry.doc

208-162

Health Department Letter

Jefferson County Health Department

ROSEMARIE CANNARELLA, M.D., M.P.H.
HEALTH OFFICER



1948 WILTSHIRE ROAD, SUITE 1
KEARNEYSVILLE, WV 25430
ENVIRONMENTAL: (304) 728-8415
FAX: (304) 728-3314
MEDICAL: (304) 728-8416
FAX: (304) 728-3319

August 30, 2007

Leesa Davis, RLA
Dewberry & Davis LLC
P O Box 35
Charles Town, WV 25414

Dear Ms Davis:

The Jefferson County Health Department has received your request for information regarding contaminated wells within 1000 feet of the Shveda property which is the site of a proposed subdivision located on Route 480, Kearneysville Pike.

A review of our records indicates that the adjacent six properties towards the northwest (Mecklenburg Heights) are served by Shepherdstown public water. The rest of the surrounding areas would be served by individual water wells. This department has record of testing 10 of the wells in Morgana, 5 wells in Ledge Lowe, and 1 well on the adjoining property along Route 480 for bacteriological contamination. All tested absent for bacteria at the time. This department has no documentation of ever testing any other wells with in the projected site for bacteriological contamination.

If you have any questions, please contact the Jefferson County Health Department at 728-8415.

Sincerely,

Rosemarie Cannarella, MD, MPH
Health Officer

Cc: Sherry Kelly, Jefferson County Planning, Zoning, & Engineering
Arletta Lancaster, RS

Hospital letter



October 10, 2007

Dewberry & Davis, LLC
P.O. Box 35
Charles Town, West Virginia 25414
Attn: Annette van Hilst RA

RE: Proposed Shveda Residential Subdivision

Dear Ms. Van Hilst:

This is in response to your letter to me dated October 3, 2007, concerning the request for hospital coverage for the proposed Shveda Residential Subdivision.

As President & CEO of West Virginia University Hospitals-East, both Jefferson Memorial Hospital and City Hospital would be glad to provide hospital services for the proposed Development.

Sincerely,

A handwritten signature in black ink, appearing to read 'Roger Eitelman'.

Roger M. Eitelman
President & CEO

RME:lsr

Phone: 304-264-1244
Fax: 304-264-1290
reitelman@wvuh-east.org

Office of the President and CEO

2500 Hospital Drive
Martinsburg, WV 25401

Board of Education letter



Dewberry

P.O. Box 35
Charles Town, WV 25414

304 725-4572
304 725-6896 fax
www.dewberry.com

August 20, 2007

Superintendent Steven Nichols
Jefferson County Board of Education
PO Box 987
Charles Town WV 25414

Subject: Shveda Residential Cluster Subdivision

Dear Superintendent Nichols:

As part of the process of developing a Community Impact Statement for the subject project, we develop a section on the proposed impact of the development upon the Jefferson County School System. Attached, please find a summary of the proposed development and the draft of the section dealing with school impact.

Please review this material and provide this office with any comments that you would want included or presented to the Jefferson County Planning Commission.

I thank you for your cooperation.

Sincerely

Dewberry & Davis, LLC

Leesa Davis, RLA
Senior Landscape Architect
Land Design & Survey Division

Attachments: Project Summary
Location Map
Excerpt, Draft CIS, "Demand for Schools" section

Sheriff letter



Everett "Ed" Boober
P.O. Box 9
Charles Town, WV 25414

SHERIFF and TREASURER of Jefferson County

Telephone: 728-3205
Tax Office: 728-3220
Fax: 728-3299

August 22, 2007

Dewberry & Davis LLC
Attn: Leesa Davis
PO Box 35
Charles Town WV 25414

Dear Ms. Davis:

This is in response to your request that this department furnish you with an account with respect to our ability to respond to calls for service regarding matters of law enforcement and preservation of the peace at the proposed Shveda Residential Cluster Subdivision located on Kearneysville Pike north of Ridge Road and across from Morgana Drive in Jefferson County, West Virginia.

The Sheriff's Department is charged with the affirmative duty of investigating criminal activity, preserving the peace, and enforcing the law. This duty extends to all corners of the county and to any community, subdivision or a business property without regard to size or location.

However, as our community continues to grow, it becomes progressively more difficult to assure timely response due to the significant increase in the numbers of calls for service with the staffing that is currently being provided to the Sheriff's Department. On occasion, calls for service must be handled on a priority basis where the most-serious, urgent type of events must receive priority in response and other, less serious calls for service, are responded to as quickly as manpower becomes available.

The foregoing should not be construed as an expression from this office that we are unable or unwilling to respond to calls for service in a timely manner. Given the resources and level of manpower with which we are obligated to work, our level of service is, and will continue to be responsive, timely, and efficient in carrying out our duties and responsibilities in the areas of law enforcement, criminal investigation and preservation of the peace in the Jefferson County community.

Sincerely,

Everett "Ed" Boober
Sheriff and Treasurer

State Police letter



WEST VIRGINIA STATE POLICE

Kearneysville, West Virginia
August 22, 2007

Dewberry & Davis, LLC
Leesa Davis, RLA
Senior Landscape Architect
Land Design & Survey Division
P.O. Box 35
Charles Town, West Virginia 25414

RE: Providing police services for proposed subdivision

Dear Sir:

This officer has reviewed your request for comment about police services for your proposed subdivision. This agency, as a law enforcement agency, doesn't have the luxury of declining police services. The West Virginia State Police will respond to any call for service within our area of responsibility; however, with the ever growing population of Jefferson County and the decrease in our manpower, we are forced to prioritize non-emergency calls for service.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Sgt C.C. Morton".

Sergeant C. C. Morton
West Virginia State Police
Charles Town Detachment

Shepherdstown Fire Company letter



SHEPHERDSTOWN FIRE DEPARTMENT, INC.

8052 Martinsburg Pike • PO Box F • Shepherdstown, WV 25443
(304) 876-2311 • ShepherdstownFireDepartment.com

"Over 200 Years of Service by Trained Volunteers"

September 15, 2007

Leesa Davis, RLA
Senior Landscape Architect
Land Design & Survey Division
Dewberry & Davis, LLC

RE: Shevda Residential Cluster Subdivision

Dear Leesa Davis:

The Shepherdstown Fire Department is the primary Fire & EMS Department to your proposed subdivision. Our Department is an all volunteer organization. As such we have problems both with lack of available personnel and funding for emergency operations. We will provide your proposed development with the same services that we provide to all the citizens of our fire district pending the availability of personnel and resources

Sincerely; Ross L. Morgan

A handwritten signature in purple ink that reads "Ross L. Morgan".

Fire Chief
Shepherdstown Fire Dept.

EMS Letter



JEFFERSON COUNTY AMBULANCE AUTHORITY

208 S. Mildred Street

Ranson, WV 25438

E-mail – jeffcoamb@citlink.net

Telephone – 304-728-3287

Fax – 304-728-6221

September 4, 2007

Leesa Davis, RLA
Dewberry
PO Box 35
Charles Town, WV 25414

Subject: Shveda Property Residential Cluster Subdivision

Dear Ms Leesa Davis,

I have reviewed the preliminary plans of the Shveda Property Residential Cluster Subdivision relating to residential growth and the affects on Emergency Medical Services. The primary Ambulance Company will be the Shepherdstown Fire Department with supplemental Emergency Medical Technicians from the Ambulance Authority.

Increases in call volume due to our growing and aging population are placing our services near their peak capabilities. Small residential subdivisions such as this have a minimal effect on our service. An average of 1 in 10 residents needs our services annually. With the increases in EMS incidents, *we can not assure any given response time*, but with the assistance of the other Jefferson County EMS units, we will continue to provide the Emergency Medical Services. The current average EMS response to this area is 6 minutes.

Sincerely,

A handwritten signature in black ink, appearing to read "Edwin D. Smith".

Edwin D. Smith
Operations Manager

Apple Valley Letter



Augusts 22, 2007

RE: Proposed Shveda Residential Cluster Subdivision

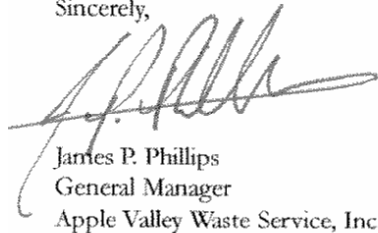
Leesa Davis
Dewberry & Davis
P. O. Box 35
Charles Town, WV 25414

Dear Mrs. Davis:

Apple Valley Waste Service, Inc. maintains a motor carrier certificate from the WV Public Service Commission to haul residential waste in Berkeley and Jefferson Counties. We are ready and able to provide residential refuse collection for the Proposed Shveda Residential Cluster Subdivision in Jefferson County West Virginia, and any other developments in Berkeley and Jefferson Counties located outside the corporate limits of the following municipalities – the Town of Bolivar, the City of Charles Town, the Town of Harpers Ferry, the City of Ranson, and the Town of Shepherdstown. The refuse will be disposed at LCS Landfill, Moutnainview Landfill, Old Dominion Transfer Station, Jefferson County Transfer Station or any other permitted site capable of receiving municipal solid waste from the State of WV.

Please contact Waste Management of West Virginia to get a statement regarding the same for commercial services.

Sincerely,

A handwritten signature in dark ink, appearing to read 'J.P. Phillips', is written over the typed name and title of the sender.

James P. Phillips
General Manager
Apple Valley Waste Service, Inc.

EXHIBIT 8

Material from
West Virginia Historic Inventory
& the
2006 – 2007 Survey conducted by the
Jefferson County Landmarks Commission

Explorer: The West Virginia History Database

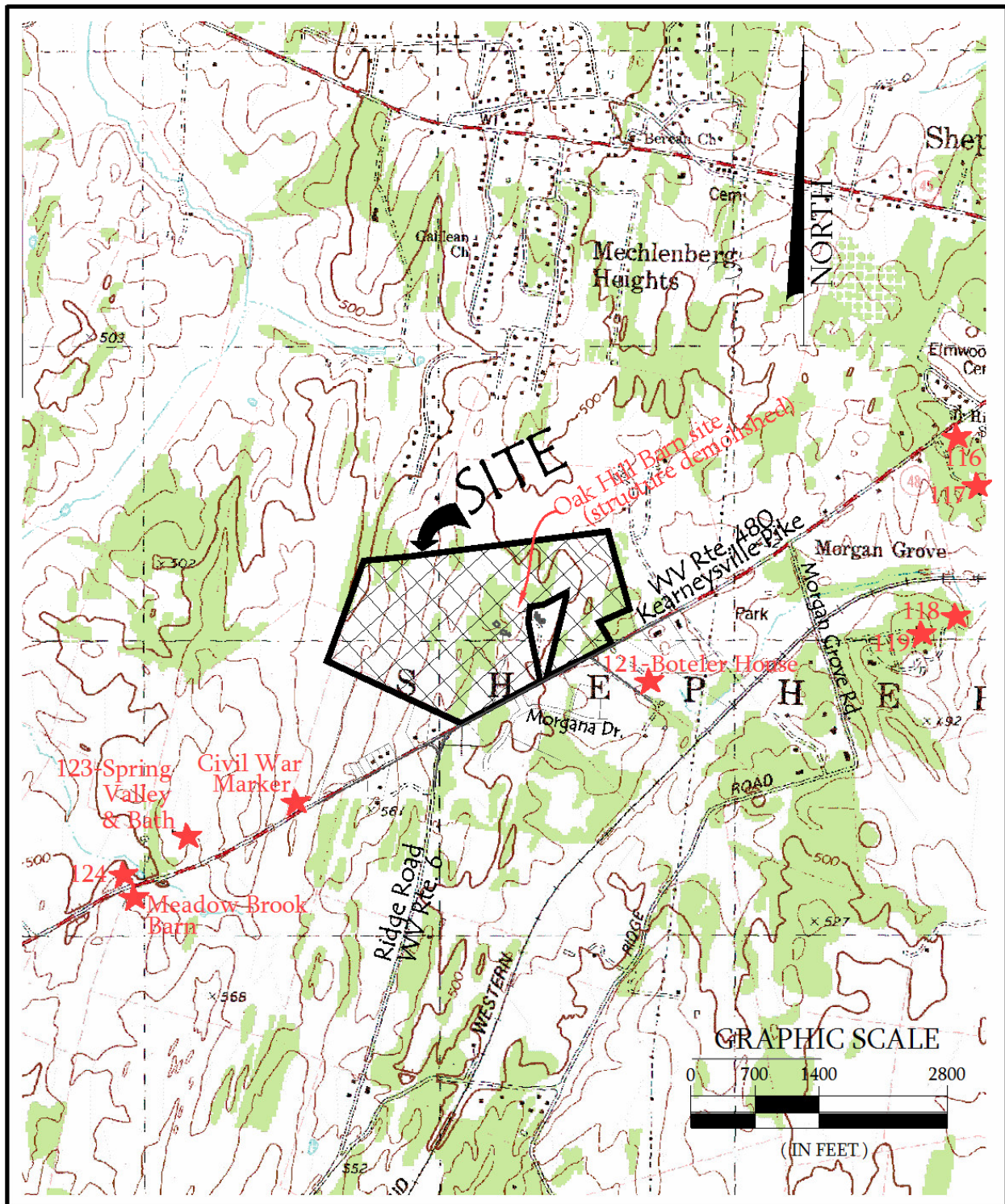
Jefferson County Module created by
William D. Theriault, PhD.

Published by

The WV Division of Culture and History
Charleston WV

Shveda (Shepherdstowne Estates) CIS

HISTORIC PLACES MAP



Dewberry

DATE
9/7/07

PROJ. NO.
50007970

SCALE
1"=1400'

PROJECT
Shveda Property

TITLE
Historical Places Map

SHEET NO.

Shveda (Shepherdstowne Estates) CIS



123 VALLEY SPRING

Present Owner: Nevins [?] Hendrix
Mailing Address: Martinsburg, WV
Original Owner: *
Assessor Map #: 14, parcel 9; Deed book 307, p. 436
Approximate Lot Size: 162 acres
Property Currently Zoned: *
Assessment: Land - 10,600; Improvements - 4,600; Total - 15,200
Physical Condition: Structure - * Good/Fair/Poor; Grounds - Good/Fair/Poor; Neighborhood - Good/Fair/Poor
Common Name: *
Address: *
Area: *
Architect/Builder: *
Date of Construction: *; Source - *
Architectural Style: farm house
Present Use: *
Original Use: *
Incidence in Area: *
Importance to Its Neighborhood: Minor
Accessible to Public: no
Architectural Significance: Local
Significance of Interiors: *
Significance of Landscaping: *
Historic Significance: *
Representation in Other Surveys: *
PHYSICAL DESCRIPTION
Facade Material: weatherboard (grey), wide siding
Foundation: stone
Roof Form: pitched
Porch or Veranda: yes; Height: 1 story
Building Height in Stories: 2
Roof Dormers: no
Chimneys: 2; Where: North, South facade
Facade Emphasis: horizontal
Window Sash: 1st: 6/6; 2nd: *; 3rd: *
Entrance: Fan: no; Lintel: *; Trans: yes; Sidelights: *; Undecorated: *
Significant Outbuildings: spring house
Landscaping: neglected
Other Notes: *

124

Present Owner: Teriff Young
NO OTHER INFORMATION

Shveda (Shepherdstowne Estates) CIS

126 MEADOWBROOK

Present Owner: E. Eugene Stanley

Mailing Address: *

Original Owner: *

Assessor Map #: *

Approximate Lot Size: *

Property Currently Zoned: *

Assessment: Land - *; Improvements - *; Total - *

Physical Condition: Structure - * Good/Fair/Poor; Grounds - Good/Fair/Poor; Neighborhood - Good/Fair/Poor

Common Name: *

Address: *

Area: *

Architect/Builder: *

Date of Construction: *; Source - *

Architectural Style: *

Present Use: *

Original Use: *

Incidence in Area: *

Importance to Its Neighborhood: *Great/Moderate/Minor

Accessible to Public: *

Architectural Significance: *National/State/County/Local/Part of Scene/Other

Significance of Interiors: *

Significance of Landscaping: *

Historic Significance: *

Representation in Other Surveys: * National Register/State Survey/HABS

PHYSICAL DESCRIPTION

Facade Material: yellow weather board

121 BOTELER HOUSE

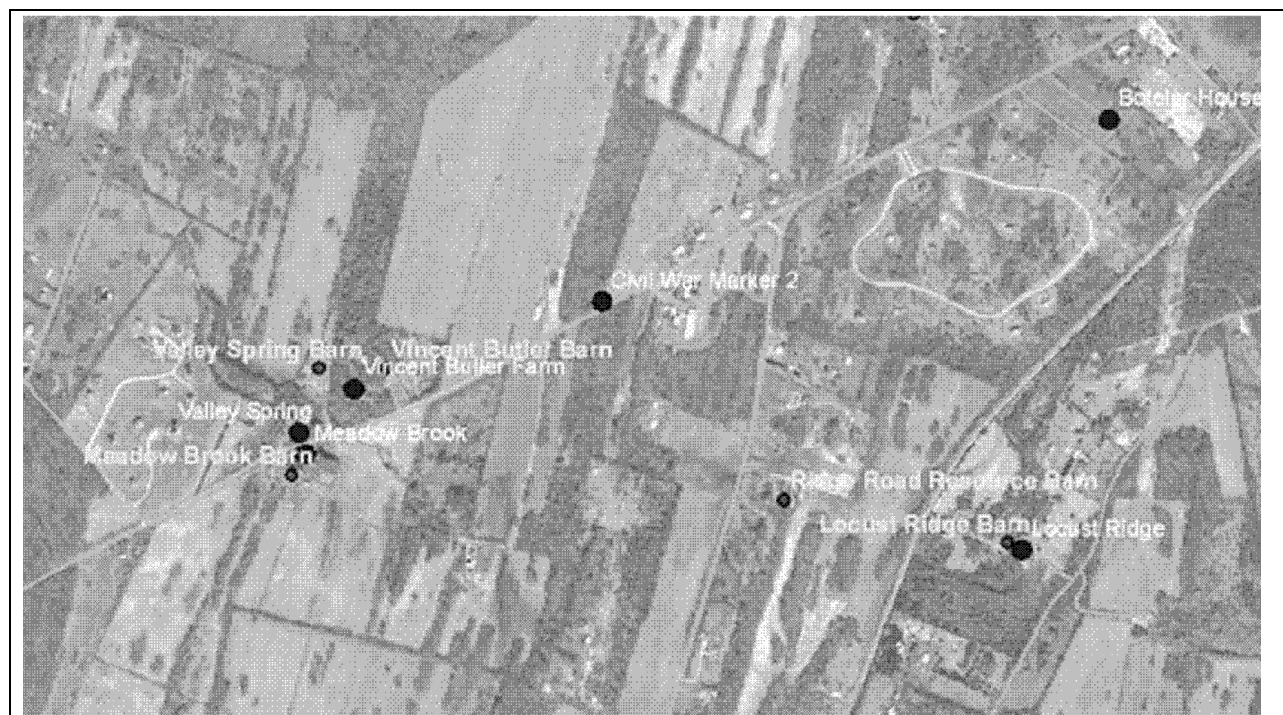
Present Owner: Lavatta Fraley

NO OTHER INFORMASTION

122 NO LONGER EXISTS

On the next page are two photos from the 2006-07 survey done by the Jefferson County Landmarks Commission, identifying resources near or on the subject property. Below is a list of the buildings identified in the survey.

Shveda (Shepherdstowne Estates) CIS



Shveda (Shepherdstowne Estates) CIS

From 2007 survey

Historic Barns

Name	Material	Type	Date	NatRegi	LandMr	Address	Categor	Survey
Gates Barn	frame	Bank Barn	c. 1870				III	
Oak Hill Barn								
Valley Spring Barn	frame	Bank Barn	c. 1880				I	
Ridge Road Resource Barn	frame	Bank Barn	c. 1900				III	
Vincent Butler Barn	frame	Bank Barn	c. 1870				III	
Meadow Brook Barn	frame	Bank Barn	c. 1900				III	
Locust Ridge Barn	frame	Ground Barn	c. 1880		CL		III	

Historic resources

Name	Material	Type	Date	NatRegi	LandMr	Address	Category	Survey
Sarah Morgan House	brick	House	c. 1850			Shepherd Lane	III	
Vincent Butler Farm	frame	Farm House	c. 1840			Kearneysville Pike	III	
Valley Spring	frame	Farm House	c. 1880			Kearneysville Pike	III	
Meadow Brook	frame	Farm House	c. 1890	NRE v	2766	Kearneysville Pike	III	05-003
Boteler House	frame	Farm House	c. 1865	NRE v		Kearneysville Pike	II	
Civil War Marker 2	concrete	Marker	c. 1911			Kearneysville Pike	III	

Information from 2007 Survey

Exhibit 9 Highway Problem Areas

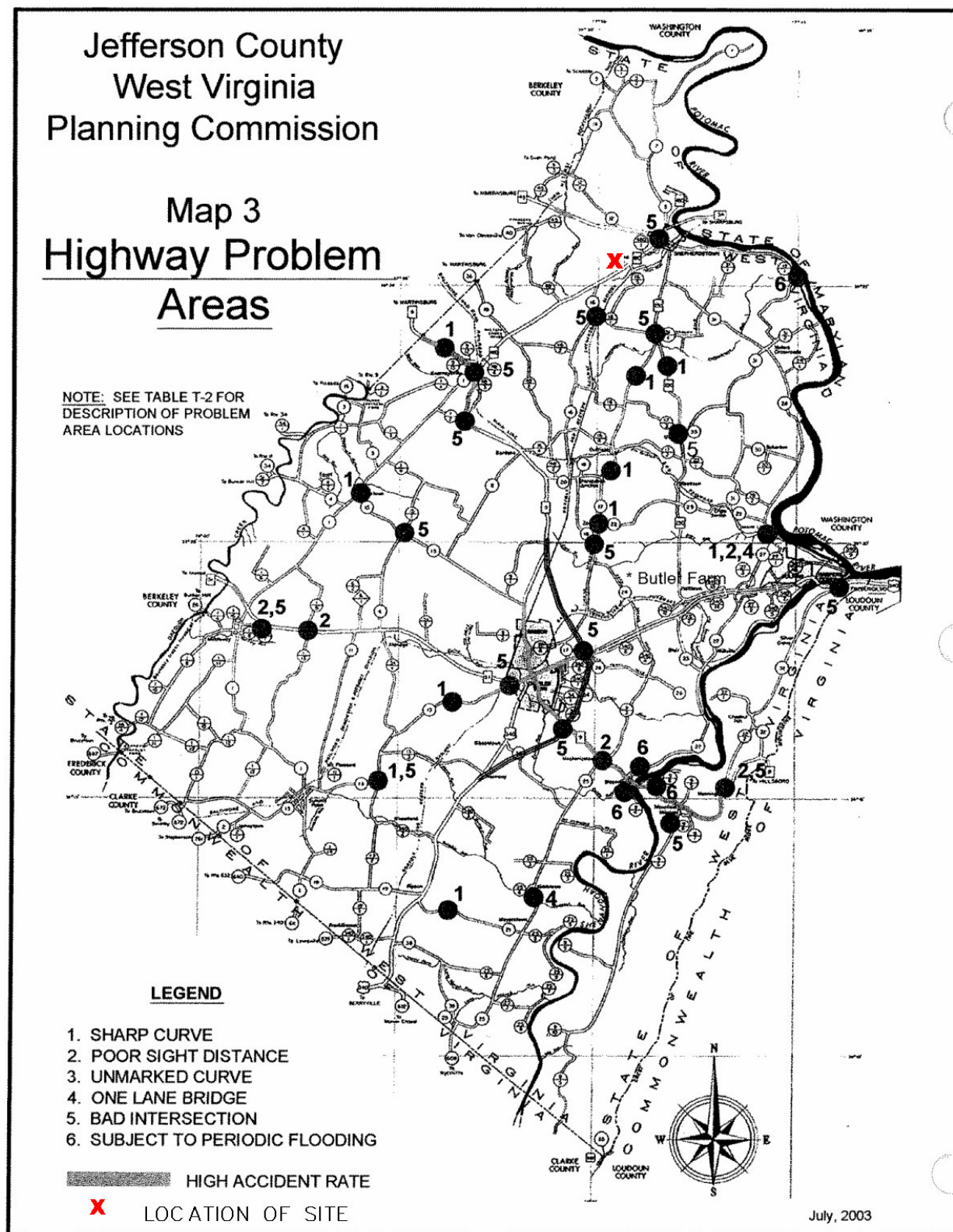


Exhibit 10 Table T2

TABLE T-2
Highway Problem Areas

Route Number	Road Class	Location	Problem
340	P	Shenandoah River Bridge to VA Line	Curvy, rough shoulders, falling rocks, stone retaining wall at edge of road.
340	P	Intersection with Rt. 32	Inadequate turning area onto Rt. 32.
340	P	Intersection with Rt. 9	Poor access from Rt. 340 (By-pass) east-bound off ramp onto Rt. 9 west-bound lane.
9	P	Intersection with Rt. 340	Poor access from Rt. 9 (By-pass) west-bound off ramp onto Rt. 340 west-bound lane.
9	P	Intersection with Rt. 32/2	Poor intersection angle causing poor visibility.
9	P	Intersection with Rt. 1/2 & 48/3	Numerous intersections.
9	P	Intersection with Rt. 480	Poor left turn movements onto Rt. 480 & Rt. 1
9	P	Intersection with 9/3	Poor sight distance.
51	S	Intersection with Rt. 1/5 & 1/13	Poor sight distance turning onto Rt. 1/5 & Rt. 1/13.
51	S	From Qpequon Creek to Charles Town	Hidden driveways.
230	S	1 mile South of Rt. 17	S-Curve
230	S	Intersection with Rt. 31/1 & 16/1	Poor visibility/sight distance.
1/7	L	Intersection with Rt. 51 (Middleway)	Poor sight distance & intersection angle.
1/17	L	Between Rt. 1 & Rt. 13	Rough one-lane dirt road.
9/3	L	Intersection with Rt. 9 (Cattail Run Rd. & Rt. 9)	Poor sight distance pulling onto Rt. 9.
9/4	L	From Rt. 9 at Bloomery to the dead-end	Within 100 year flood plain, periodic flooding.
9/5	L	From Rt. 9, South to VA Line (Mission Road)	Many curves on 2 - lane paved section with large subdivisions.
13	L	Intersection with Rt. 51 in Charles Town	Poor intersection angle causing poor visibility.
13	L	Intersection with Rt. 51/1	Poor intersection angle causing poor visibility.
13	L	Intersection with Rt. 13/2	90-degree turn.
16/1	L	Intersection with Rt. 16	Poor intersection angle causing poor visibility.
17	L	1/2 Mile South of Duffields	Two 90-degree turns.
17	L	1 Mile South of Rt. 230 Intersection	S-Curves
18	L	Intersection with Rt. 17 North of Rt. 24	Poor intersection angle causing poor visibility.
21	L	1 Mile East of Rt. 340 at Rippon	Two 90-degree turns.
22	L	Intersection with Rt. 17	Poor visibility.
Rt. 32	L	Intersection with Rt. 340	Poor intersection angle causing poor visibility, steep grade of road is dangerous when icy or wet.

Road Classifications: P = Primary, S = Secondary, L = Local Service Road

Exhibit 11: Existing Conditions:

