

AGENDA
JEFFERSON COUNTY PLANNING COMMISSION
September 13, 2011

Planning Commission meetings are located in the Old Charles Town Library meeting room at 200 East Washington Street, at the side entrance on Samuel Street at 7:00 PM

1. Approval of the minutes for the August 9, 2011 meeting.
2. Citizen Communications.
3. Request for postponement.
4. Presentation of a petition by James and Barbara Gibson for a zoning map amendment to the Planning Commission for the purpose of scheduling a public hearing within 60 days. This property is currently zoned Residential Growth and the Gibsons are requesting Residential/Light Industrial/Commercial zoning. This property is located on the south side of Route 340 (William L. Wilson Freeway); the east side of Route 27 (Millville Road) and on the north side of Route 27/2 (Allstadt's Hill Road). District: Harpers Ferry, Map: 9, Parcel: 39.1.
5. Discussion of Future Subdivision Regulations Amendments.
6. Urban Tree Canopy Goals Public Comment Discussion and Possible Vote.
7. Discussion and Possible Vote regarding Amendments to Planning Commission Bylaws.
8. Reports from Legal Counsel and legal advice to PC.
9. Director's Report.
10. County Commission Liaison Report.
11. Planning Commission Exchange.
 - Report from the Health Department Meeting Liaison.
 - Report from the Public Service District Meeting Liaison.
 - Report from the Parks and Recreation Meeting Liaison.
 - Report from the Jefferson County Development Authority Meeting Liaison.
 - Report from the Water Advisory Committee Meeting Liaison.
12. President's Report.
13. Actionable Correspondence.
14. Non-Actionable Correspondence.

The Planning Commission welcomes written comments at any time. Our office is open Monday through Friday, 9:00 a.m. to 5:00 p.m., and is located at 116 East Washington Street, P.O. Box 338, Charles Town, WV 25414. Our phone number is (304) 728-3228; our fax number is (304) 728-8126; our email address is planningdepartment@jeffersoncountywv.org and our website is www.jeffersoncountywv.org.

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Minutes and video recordings of past meetings, Subdivision Regulations, Zoning Ordinance, and the Comprehensive Plan can be found on the website. The office has a file on each project as well as aerial photos of the county. Minutes and audio recordings of older meetings not on the website are available for review in the office.

This information is
Tab #1 in your binder.

MINUTES
JEFFERSON COUNTY PLANNING COMMISSION
AUGUST 9, 2011

The Jefferson County Planning Commission met on Tuesday, August 9, 2011, with the following Commission members present: Daniel Hayes, President; Morgan Etters, Secretary; Gene Taylor, Kelly Baty, Ed Burns, Eric Smith, Paul Taylor and Walt Pellish. Staff members present included Jennifer Brockman, Director of Planning and Zoning; Seth Rivard, Planner; Steve Barney, Zoning Administrator; Jonathon Saunders, County Engineer; Stephen Groh, Assistant Prosecuting Attorney; and Amy Puetz, Planning Clerk.

Mr. Arnold Dailey was absent with notification.

Mr. Hayes called the meeting to order at 7:00 PM.

1. **Approval of the minutes for the July 26, 2011 meeting.**

Ms. Etters moved to approve the minutes of the July 26, 2011 Planning Commission meeting. Mr. Pellish seconded the motion which carried 5 for and 1 abstention (Mr. P. Taylor).

2. **Citizens Communication:** None.

3. **Request for postponement:** Ms. Brockman requested that the discussion of the Urban Tree Canopy Goals be postponed due to the fullness of the agenda. Mr. Hayes agreed and postponed the Urban Tree Canopy discussion to the September 13, 2011 Planning Commission meeting.

Mr. Baty entered the room at 7:03 PM.

4. **Public Hearing for Zoning Map Amendment (Rezoning) for property designated as Tax District: Harpers Ferry, Map: 15, portions of Parcels: 47 and 56. This property is currently zoned Rural and Residential/Light Industrial/Commercial zoning is being requested. The property is adjacent to both the current Route 9 (Charles Town Rd.) and the Route 9 currently under construction and is a total of 42 acres. David and Catherine Hott are the owners.**

Mr. Rivard reviewed the rezoning request for the Planning Commission.

Mr. Mark Dyck, with William H. Gordon Associates representing the applicants, discussed reasons that the applicant was not comfortable pursuing a Conditional Use Permit (CUP) as opposed to a rezoning request as suggested by staff. He commented that the LESA points system hinders a CUP application making it an undesirable process. Mr. Dyck explained that the uses would be limited for the property and would most likely involve service commercial uses such as a gas station or convenience store. He expressed that a 50 foot buffer would be placed between this property and those of a residential use.

Mr. Rivard read from his staff report and recommended approval as a result of staff's finding that the request is consistent with the 2004 Comprehensive Plan and the Blue Ridge

Mountain Communities Area Watershed Common Vision, provided that the conditions proposed by the applicant are inforicable.

Mr. Dyck reviewed several conditions that the applicant had proposed to apply to the property if the rezoning request were to be approved:

- There would be shields on light fixtures to direct light downward. There would be no box lighting on the sides of buildings without louvers to direct light toward the ground. A photometric plan would be submitted at the time of site plan submission showing no greater than 0.5 foot candles at the property line, with the exception of vehicular entry points.
- Low Impact Design (LID) techniques would be used on the site to provide water quality measures, to the extent allowed by Jefferson County. Emphasis would be placed on controlling soil erosion and establishing a vegetative cover that would reduce erosion potential.
- There would be tree canopy coverage of 20% of the entire property which would include existing trees and new trees planted with future site plan submittals.
- Tree preservation areas would be a minimum of 20 feet in width to maintain canopy areas and would be identified on all future site plans.
- Parking lot screening with vegetation at a minimum of 2 feet or taller would be provided between the road and parking locations.
- Not more than 40% of any structure would be comprised of metal siding, concrete panels, split face block, EFIS or vinyl on the on the front and sides of a structure. Use of concrete block would not be permitted on the front and sides of a structure. Use of concrete panels, split face block, EFIS, vinyl or use of concrete block would be allowed on the rear of a building, only as long as the rear is not visible from a street/road or right of way. Use of brick, stone, fiber cement siding, wood and stucco would not have any limitations.
- Entrances to buildings shall front the street to which the building is oriented.
- Dumpster enclosures shall match buildings in color and like material.
- Outdoor storage areas shall be screened from view of all right of ways.
- LED message board signs or streaming signage would be prohibited.
- The only use proposed to be restricted would be residential activity. None of the remaining uses in the district are proposed to be restricted. The applicant has stated that they intend to bring a septic business and related equipment to the rear of the property. The site would be fully screened from Route 9 and adjacent properties.
- The applicant shall abide by the hillside protection/slope requirements found in the Zoning Ordinance and Subdivision Regulations.

There was discussion as to whether or not the conditions would be legally binding. Mr. Groh stated he was unsure if the applicant would be legally bound to adhere to the conditions. Mr. Dyck stated that the applicant would be willing to list the conditions within the merger deed so that the conditions would be recorded in the County Clerk's office. Mr. Groh questioned when the merger deed would be submitted.

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JEFFERSON COUNTY PLANNING COMMISSION
AUGUST 9, 2011
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Mr. Hayes opened the public hearing. Mr. John Maxey, Harpers Ferry resident, expressed that a CUP would be a more appropriate process. He stated that if the attorney found issue with the enforceability of the voluntary conditions, that he would personally go before the County Commission to request a refund of the applicant's filing fee so that a CUP process could be pursued.

Ms. Donna Piper, Blue Ridge resident, commented that she would like to see good development on this site and raised concern of what specifically would be built there.

Ms. Betsy Kravitz, Blue Ridge resident, stated that she was glad that there would be a buffer and questioned the contents of that buffer. She also commented that she would want to stay informed throughout the process of the development of the property. Ms. Brockman explained the public workshop phase of a concept plan.

Mr. Dale Manuel, County Commissioner and former member of the WV House, explained the history of violations on the property. He requested that Mr. Groh ensure that the conditions are legally binding.

Ms. Violet Jenkins, Blue Ridge resident, expressed concerns regarding tree clearing. She also stated that she did not want to see "row houses" on the property.

Ms. Lynn Widmeyer, County Commissioner speaking as a professional planner and county resident, commented that she feels that conditional rezoning is a legally troublesome approach. She stated that she would like to see a restriction of square footage of commercial building in relation to the acreage. She raised concerns of stormwater management and traffic issues. Ms. Widmeyer commented that the buffer area was too small.

Mr. Charles Manuel, Blue Ridge resident, stated that he lived close to the property and was also concerned that past violations would continue. He asked that staff monitor the property closely. He commented that applying conditions or exceptions to a rezoning defy the Zoning Ordinance.

Mr. Gerald Jenkins, Blue Ridge resident, stated he wanted to ensure good development on the property and reiterated concerns regarding violations that had occurred on the property in the past.

Mr. Hayes closed the public hearing.

Ms. Etters questioned if presenting the agreed upon conditions as deed restrictions would make those conditions legally binding. Discussion ensued regarding how to make the conditions agreed to by the applicant enforceable.

Mr. Baty expressed concern regarding the stability of building on the property due to the degree of slope present and the lack of studies done to ensure the stability of the land. He voiced that he was uncomfortable with the rezoning.

Discussion ensued regarding the ability to build out the property given the slope of the land. Mr. Dyck responded that he felt the property could be properly developed with the given slope.

Mr. Hayes asked what stormwater management techniques would be used. Mr. Dyck responded that low impact techniques would be used as well as a stormwater management pond.

Mr. Burns asked for advice on the best way to legally proceed. Mr. Groh explained that any vote that would be made would be only a recommendation to the County Commission, who would be the deciding body for the rezoning request. He clarified that the County Commission could also impose more conditions as that body deemed fit.

Mr. Pellish moved to recommend approval of the request to rezone the property to the County Commission with the staff recommended motion as amended to include the fifteen (15) discussed conditions because the request is in conformance with the Comprehensive Plan. Mr. Burns seconded the motion which carried 6 for and 1 opposed (Mr. Baty).

- 5. Concept Plan Review for Harvest Pointe Community Church (PC File #S11-02). This property is located on the north side of WV Route 51 approximately 4 miles west of Charles Town. This project consists of a 48,918 sq. ft. of total floor area in 5 phases including a picnic pavilion, recreation areas, a chapel, a prayer garden, and a fountain in the outdoor area. The indoor area is proposed to consist of a worship area, classrooms and a nursery, a large gathering area, a coffee bar and café area, and administrative offices with conference rooms. The property is located in Tax District: Middleway; Tax Map: 20 Tax Parcel: 7.13.**

Mr. Rick Thurman, representative of Harvest Pointe Community Church, gave an overview of the project. He stated that the rural character of the area would be maintained with the planned exterior design. Mr. Thurman reported that the project may be done in 5 stages.

Mr. Rivard read from his staff report stating that staff found the Concept Plan to be complete. He informed the Planning Commission that there had been comments submitted by neighbors communicating displeasure with the church using Rose Hill Drive as the access for the project and some neighbors have stated a preference for a separate access to Route 51 and a secondary access via Hartack Lane. He relayed that staff had some concerns regarding the installation of another access onto Route 51. Mr. Rivard stated that even though this lot is a part of the Rose Hill Subdivision, the single family restriction note was not applied to this lot at the time of recordation.

Mr. Hayes opened the public hearing. Mr. Steven Guier and family, adjoining neighbors, raised concern that since the subdivision uses wells as its water source, that the populace of church members exceeds the anticipated well water use if compared to the single family home, which neighbors expected to be placed on that lot. He reported that, in his original research of the church's website, an 11,000 square foot structure was being proposed. Later, at a meeting between the developers and the neighbors, Mr. Guier stated that the applicant revealed that a structure just less than 22,000 square feet would be proposed and now a plan

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for a 50,000 square foot building was being presented. Mr. Guier requested that there to be a full Environmental Protection Agency study done which would include a watershed and ground water report. He noted that the exterior lighting should have hoods directing the light downward and that the basketball and soccer courts should be moved to the opposite side of the lot away from his property. He requested that the Planning Commission require a buffer between his property and the church's property be provided, that all parking lots be centralized, that the noise ordinance be observed and enforced, and that all lights be turned off at a decent time. He asked that there be ongoing communications between the developers and the Rose Hill residents as to the progress of the project.

Mr. Marvin Smith, Rose Hill resident, raised the concern that traffic safety would be an issue if Rose Hill Drive were to be used as an access due to a knoll on Route 51 that would impair sight distance. He also stated that he would not want the view of the night sky disrupted by lighting at the church.

Mr. Will Liston, Rose Hill resident, reiterated traffic safety concerns and noted his disappointment that the lot would not be a residential use. He inquired as to whether the café that was being proposed would be a commercial use or used strictly for the attendees of the church. The applicant confirmed that the café would be for church use only and not for food purchases by the general public. Mr. Liston also reported concerns regarding well water.

Ms. Natasha Sievec, church patron, stated that the church is an asset to the community and voiced support of the project.

Ms. Edie Bell, church member, stated that the church wants to help the community. She invited Rose Hill Subdivision residents to use the church facilities. Ms. Bell described the growth of the church and the need for more space.

Mr. Hayes closed the public hearing. Discussion ensued. Mr. Thurman addressed some of the public comment and discussed possible options to alleviate some concerns.

Mr. Burns moved to approve the Concept Plan with the staff recommended motion. Mr. Taylor seconded the motion.

Mr. Baty moved to amend the motion to include that:

- 1) The recreational facilities are moved away from Mr. Guier's property;
- 2) The lights on the property are equipped with hoods;
- 3) The applicant work with staff to provide an appropriate buffer to the Guier property;
- 4) Periodic meetings between the developer and area residents are called to inform residents of progress of the project.

Ms. Etters seconded the amendment to the motion, which carried unanimously.

Mr. Hayes called the question of the main motion, which carried unanimously.

Mr. Hayes called for a break at 9:24 PM. Mr. Hayes called the meeting back to order at 9:28 PM.

6. **Concept Plan Review for Jefferson Asphalt Products (PC File #S11-12). This property is located at 9390 Middleway Pike on WV Route 51 near Tuscawilla Hills. This project consists of a 60 ft. by 70 ft. single story office building and a 60 ft. by 100 ft. maintenance shop. The property is located in Tax District: Charles Town; Tax Map: 13 Tax Parcel: 7.**

Mr. Dirk Stansbury of D.A. Stansbury Engineering gave a brief overview of the project and stated that it would be done in two phases.

Mr. Rivard read from his staff report and stated that staff had found the Concept Plan complete.

Mr. Hayes opened the public hearing. There was no public comment. Mr. Hayes closed the public hearing.

Mr. Burns moved to approve the Concept Plan with the staff recommended motion. Mr. G. Taylor seconded the motion, which carried unanimously.

7. **Concept Plan Review for Verizon Wireless - Leetown (PC File #S11-13). This property is located at 6000 Paynes Ford Road, Kearneysville. This project consists of a proposed telecommunication facility that will consist of a 100 ft. by 100 ft. leased area, within which a 50 ft. by 50 ft. compound consisting of a 120 ft. silo structure, a 12 ft. by 30 ft. equipment shelter, an electrical backboard, and a mesa cabinet will be installed. The property is located in Tax District: Middleway; Tax Map: 7 Tax Parcel: 6.**

Mr. Harold Bernadzikowski, agent for Verizon Wireless, explained the cell tower facilities proposal.

Mr. Barney read from his staff report and stated that staff finds that the communications tower meets the criteria of the Jefferson County Zoning Ordinance and is consistent with the 2004 Comprehensive Plan.

Mr. Smith entered the room at 9:45 PM.

Mr. Burns moved to accept the Concept Plan with the staff recommended motion. Mr. Pellish seconded the motion which carried unanimously.

8. **Urban Tree Canopy Goals Public Comment Discussion and Possible Vote.**
This discussion was postponed to the September 13, 2011 Planning Commission meeting.
9. **Reports from Legal Counsel and legal advice to PC.**
Mr. Groh stated that he would probably have an update on legal action regarding Far Away Farms at the next Planning Commission meeting.

10. Director's Report.

Ms. Brockman discussed agenda items for upcoming Planning Commission meetings. She reported that on Saturday, September 17, 2011 the next US 340 Corridor Plan Public meeting would be conducted at 10 AM in the library meeting room.

11. County Commission Liaison Report. None.

12. Planning Commission Exchange.

- **Report from the Health Department Meeting Liaison.** None.
- **Report from the Public Service District Meeting Liaison.** None.
- **Report from the Parks and Recreation Meeting Liaison.** None.
- **Report from the Jefferson County Development Authority Meeting Liaison.** Mr. Pellish stated that he would continue to encourage interaction between the Development Authority and the Planning Commission. He suggested that a joint meeting between the two bodies would be advisable.
- **Report from the Water Advisory Committee Meeting Liaison.** None.

13. President's Report. None.

14. Actionable Correspondence. None.

15. Non-Actionable Correspondence. None.

Mr. Smith moved to adjourn the meeting at 9:57 PM. Mr. G. Taylor seconded the motion which carried unanimously. An audio recording and a video recording of the meeting may be found on our website. These minutes were prepared by Amy Puetz, Planning Clerk.

**A Motion Recommending Approval of a
Rezoning for Hott Property
August 9, 2011**

Whereas, David and Catherine Hott has requested rezoning of property known as the Hott Property; and

Whereas, The property is identified as Parcels 47 and 56 as shown on Tax Map 15 of the Harpers Ferry District, cumulatively consisting of 59 acres; and

Whereas, The applicant is requesting a portion of Parcels 47 and 56, comprising of 42 acres, be rezoned from Rural to Residential-Light Industrial-Commercial as shown in the exhibit below; and

Whereas, The remaining 17 acres will remain Rural; and

Whereas, The requested rezoning process complies with the requirements in accordance with the provisions of Article 12 of the Jefferson County Zoning and Land Development Ordinance, effective July 7, 1988, as amended and West Virginia State Code Section 8A-7-9; and

Whereas, The Planning Commission finds that the requested rezoning conforms with the adopted 2004 Comprehensive Plan as outlined subject to the conditions attached hereto as Exhibit A; and

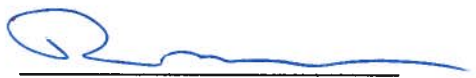
Whereas, The Planning Commission further finds that there has not been major changes of an economic, physical or social nature within the area involved which were not anticipated when the Comprehensive Plan was adopted; and

Whereas, Staff recommends approval of the requested rezoning based on the conditions outlined in the staff report attached which include but are not limited to a merger deed with proper consideration for single 42 acre parcel, bar any residential use, require set-back of 50 foot and vegetation buffers and such other conditions as set forth in Exhibit A; attached hereto and

Now therefore be it moved, that the Jefferson County Planning Commission recommends approval the request for rezoning from Rural to Residential-Light Industrial-Commercial for property identified in the Jefferson County Tax Map as Parcels 47 and 56 as shown on Tax Map 15 of the Harpers Ferry District.

The portion of the record of the Planning Commission meeting pertaining to this application and the official minutes thereof are incorporated herein by reference as if set forth in full herein.
Recommended _____ this __ day of August

By vote of the Jefferson County Planning Commission
By a vote of 6 Yes 1 No



Daniel Hayes, Commission President

Exhibit A to Hott Re-Zoning

1. Merger deed would be recorded prior to rezoning containing all of the following restrictions which would be placed upon the merger parcel and recorded in the land records of Jefferson County such that the restrictions touch and concern the land and would run with the land.
2. Shields on lighting to direct light downward. No box lighting on sides of building without louvers to direct light toward the ground. Submit a photometric plan at the time of site plan submission showing no greater than 0.5 foot candles at the property line, with the exception of vehicular entry points.
3. Use of Low Impact Design (LID) techniques will be used on the site to provide water quality measures, to the extent allowed by Jefferson County. Soil erosion and establishing a vegetated cover that will reduce erosion potential shall be implemented.
4. Tree canopy coverage of 20% over the entire property that is subject to the rezoning shall be maintained as part of the final development. The 20% coverage would include existing trees and new trees planted with future site plan submittals.
5. Tree preservation areas will be a minimum of 20 feet in width to maintain canopy areas. Tree canopy preservation areas will be identified on all future site plans with tree protection details.
6. Parking lot screening with vegetation at a minimum of 2 foot or taller provided between the road and parking locations.
7. No more than 40% of any structure comprised of metal siding, concrete panels, split face block, EFIS or vinyl on the front and sides of a structure.
8. No use of concrete block would be permitted on the front and sides of the structure. Use of concrete panels, split face block, EFIS, vinyl or use of concrete block would be allowed on the rear of a building, so long as the rear is not visible from a street/road or right of way.
9. Use of brick, stone, fiber cement siding (such as Hardi Plank), wood, stucco, would not have any limitations.
10. Entrances to buildings shall front the street to which the building is oriented.
11. Dumpster enclosures shall match buildings in color and like material.
12. Outdoor storage areas shall be screened from view of all right of ways.

13. LED message board signs or streaming signage are prohibited from the subject property.
14. The only use proposed to be restricted is residential activity. No residential development shall take place upon the parcel to be re-zoned. None of the remaining uses in the district are proposed to be restricted. Applicant has stated that they intend to bring their septic business and related equipment to the rear of the property, which would be similar to a contractor's yard. The septic system and related equipment would be fully screened from Route 9 and adjacent properties. There are no specific uses currently planned for the balance of the property and the applicant has suggested that a nursery or landscaping business, a Dollar General store, a gas station, and other neighborhood-serving land uses are options that are being considered.
15. All uses of the subject property shall abide by the hillside protection/slope requirements found in Zoning Ordinance and Subdivision Regulations.

**A Motion Recommending Direction regarding a
Concept Plan for Harvest Pointe Community Church
August 9, 2011**

Whereas, Harvest Pointe Community Church is proposing a 48,918 square foot structure; and

Whereas, The property is located at corner of Highway 51 and Rose Hill Drive, Charles Town, WV 25414 and is identified as Parcel 7.13 as shown on Tax Map 20 of the Middleway Tax District, cumulatively consisting of 17.456 acres; and

Whereas, The Planning Commission is required to hold a public workshop regarding the concept plan as outlined in Section 24.121 of the Subdivision and Land Development Regulations; and

Whereas, The Planning and Zoning Department Staff finds the Harvest Pointe Community Church concept plan complete and in conformance with the Subdivision and Land Development Regulations; and

Whereas, the following conditions will be applied:

1. The recreational facilities are moved away from Mr. Guier's property;
2. The lights on the property are equipped with hoods;
3. The applicant will work with staff to provide an appropriate buffer to the Guier property;
4. Periodic meetings between the developer and area residents are called to inform residents of progress of the project.

Now therefore be it moved, that the Jefferson County Planning Commission gives the above mentioned direction for the concept plan for property identified in the Jefferson County Tax Map as Parcel 7.13 as shown on Tax Map 20 of the Middleway Tax District.

The portion of the record of the Planning Commission meeting pertaining to this application and the official minutes thereof are incorporated herein by reference as if set forth in full herein.

Direction given this 9 day of August 2011
By vote of the Jefferson County Planning Commission

Planning Commission President

Daniel Hayes

**A Motion Recommending Direction regarding a
Concept Plan for Jefferson Asphalt
August 9, 2011**

Whereas, Jefferson Asphalt is proposing a 4,200 square foot office and 6,000 square foot shop;
and

Whereas, The property is located at corner of 9390 Middleway Pike (Highway 51), Charles
Town, WV 25414 and is identified as Parcel 7 as shown on Tax Map 13 of the Middleway Tax
District, cumulatively consisting of 34.27 acres; and

Whereas, The Planning Commission is required to hold a public workshop regarding the
concept plan as outlined in Section 24.121 of the Subdivision and Land Development
Regulations; and

Whereas, The Planning and Zoning Department Staff finds the Jefferson Asphalt concept plan
complete and in conformance with the Subdivision and Land Development Regulations.

Now therefore be it moved, that the Jefferson County Planning Commission gives the above
mentioned direction for the concept plan for property identified in the Jefferson County Tax Map
as Parcel 7 as shown on Tax Map 13 of the Middleway Tax District.

The portion of the record of the Planning Commission meeting pertaining to this application and
the official minutes thereof are incorporated herein by reference as if set forth in full herein.

Direction given this 9 day of August 2011
By vote of the Jefferson County Planning Commission

Planning Commission President

Daniel Hayes

**A Motion Recommending Direction regarding a
Concept Plan for Verizon Wireless Leetown Concept Plan
August 9, 2011**

Whereas, Verizon Wireless is proposing to construct a 120' Wireless Telecommunications Tower designed as a silo structure, in addition to a 50' x 50' fenced compound area, a 12' x 30' equipment shelter, and other associated improvements; and

Whereas, The property is located at 6000 Paynes Ford Rd and is identified as Parcel 6 as shown on Tax Map 7 of the Middleway Tax District; and

Whereas, The Planning Commission is required to hold a public hearing regarding the concept plan as outlined in Section 4B.7 of the Zoning and Land Development Ordinance; and

Whereas, The Planning and Zoning Department Staff finds the Verizon Wireless Leetown Concept Plan to be:

- complete and in conformance with the Subdivision and Land Development Regulations and the Zoning and Land Development Ordinance; and
- consistent with the 2004 Jefferson County Comprehensive Plan; and

Now therefore be it moved, that the Jefferson County Planning Commission gives the above mentioned direction for the concept plan for property identified in the Jefferson County Tax Map as Parcel 6 as shown on Tax Map 7 of the Middleway Tax District.

The portion of the record of the Planning Commission meeting pertaining to this application and the official minutes thereof are incorporated herein by reference as if set forth in full herein.

Direction given this 9th day of August 2011
By vote of the Jefferson County Planning Commission

Planning Commission President

Daniel Hayes

This information is
Tab #4 in your binder.

PETITION FOR MAP AMENDMENT
James and Barbara Gibson
August 30, 2011

*Rec'd
August 30, 2011
Jennifer S. Magham,
County Clerk.*

Owner/Applicant:

James G. and Barbara S. Gibson
201 Needwood Farm Lane
Harpers Ferry, WV 25425

RECEIVED

AUG 30 2011

**JEFFERSON COUNTY
PLANNING, ZONING AND ENGINEERING**

Substantiation for the Request:

1. The property is currently zoned Residential Growth and the Applicant is seeking a map amendment for the Residential/Light Industrial/Commercial District (commonly known as the Mixed-Use District). The Applicant believes that this change is consistent with the 2004 Jefferson County Comprehensive Plan, as explained in this application;
2. There has been a significant change in the neighborhood, since the Jefferson County Zoning Ordinance was adopted in 1988, as explained in this application; and,
3. The Applicant believes that the Residential Zoning Classification is an error due to the long term mixed use nature of the property, as explained in this application.

Tax District, Map and Parcel Number:

Harpers Ferry Tax District, Map 9, Parcel 39.1

Deed Book Reference:

Deed Book 913 at Page 643

Plat:

Attached

Tract Size:

12.97 Acres

Discussion on:

Comprehensive Plan compatibility of the proposed change: See Below.

Any Change of transportation characteristics and neighborhood from when the original ordinance was adopted: See Below.

Typically, an amendment to a zoning map can include three types of justifications based on the jurisdiction. These justifications include: Comprehensive Plan compatibility or consistency; change of neighborhood; and/or error in the zoning map. The Jefferson County Zoning Ordinance requires a discussion on the Comprehensive Plan, transportation characteristics and change of neighborhood. This application will also discuss why the applicant feels that this property should always have been included in the Residential/Light Industrial/Commercial District.

1. Comprehensive Plan Compatibility

The 2004 Comprehensive Plan includes a total of 32 recommendations. Of these 32 recommendations, the Applicant believes that 27 of them are neutral with respect to this application. These neutral recommendations include: 3.01; 3.02; 3.04; 3.05; 3.06; 3.07; 3.08; 3.09; 3.10; 3.11; 3.12; 3.14; 3.15; 3.16; 3.17; 3.19; 3.20; 3.21; 3.22; 3.23; 3.24; 3.26; 3.27; 4.02; 4.03; 4.04; and, 4.05.

The Applicant believes that the remaining five (5) recommendations support the map amendment. These recommendations include the following:

Recommendation 3.03 on page 25 states: "When considering amendments to the Ordinances and Zoning Map to incorporate decisions based on the recommendations of this Plan, the County should address the ordinances in their entirety including: a. The preparation of a comprehensive 'existing land use map'".

Comment: If this 'existing land use map' were to be completed, it would demonstrate that this property is currently residential and commercial. In fact, the Ordinary (currently a residence) on site was used as a tavern, meeting hall and an inn in the early 19th Century. In addition, this property was used as a drive-in theater from 1952 to around 1983 and was then converted to the flea market in 1983 (prior to the adoption of the Zoning Ordinance). As everyone is aware, the flea market is still an ongoing commercial enterprise. Accordingly, when considering this amendment to the Zoning Map, Recommendation 3.03 appears to support the request based on the 'existing land uses'.

Recommendation 3.13 on Page 56 states: "The County should examine existing land use regulations and Planning Commission resources and explore regulation amendments and policies that encourage preservation of historic resources. Some amendments and policies may want to investigate may include: a. Rewarding the retention and restoration of historic buildings during the subdivision process with limited increased density to offset the expense of preservation; b. Re-evaluating zoning restrictions on the adaptive reuse of historic county-wide in order to encourage their continued occupancy and maintenance".

Comment: The Applicant has already restored the existing buildings on site, including the Ordinary, at their own expense. The Applicant has also placed them on the National Register of Historic Places. Accordingly, it appears that they have already met the intent of subsection 'a' of Recommendation 3.13; and, in order to meet subsection 'b', the property would need the 'Mixed-Use' Zoning Classification.

Recommendation 3.18 on Page 64 states: "The County should continue to pursue new industrial and commercial development in order to diversify its economy, increase the tax base and thereby mitigate the problems of increasing residential growth, and provide quality employment opportunities in the workforce."

Comment: This map amendment would be consistent with this recommendation by the virtue that it would allow the Applicant to pursue these types of projects.

Recommendation 3.25 on Page 73 states: "The County should study the US 340 corridor, including the land use, viewscape, economic development and traffic design and management in order to create an effective strategy for the long term management of this important mixed-use corridor".

Comment: This is a subjective recommendation that is viewed differently by each person. The Applicant is on record in the recent past indicating that this study is futile, since the corridor has already been developed. It is interesting to note that in the implementation section of the Comprehensive Plan (page 106), it only states that to implement this recommendation the County should 'Initiate a cooperative planning effort with the WV DOT to improve the US 340 corridor'. Unfortunately, the County has little to say in what the DOT does in this corridor. This is evident in that the 340 Study doesn't include the area between Harpers Ferry and the Virginia line, because of the discussions taking place between West Virginia, Virginia and Maryland. This also recently became evident since the State and the Border Patrol and Customs appear to be placing a new traffic signal without local County planning input. Finally, this recommendation is written in the suggestive form (should) versus the mandatory form (shall).

Notwithstanding this, the Applicant feels that this recommendation supports the rezoning application for the following reasons: the land use on this property is already mixed-use; the viewscape looking towards this property already includes the flea market and a rezoning would allow marketing to other commercial/office ventures; it would permit economic development; and, traffic design for new commercial development would necessitate improvements, even though the property already generates commercial traffic. A major purpose of this request is to allow mixed uses on the property that meets current design standards, in order to enhance the views from the top of Allstadts Hill.

Recommendation 4.10 on Page 78 states: "It is the vision of this Comprehensive Plan that development will be concentrated within the designated growth areas".

Comment: With regard to this rezoning application, this is probably the strongest and most definitive recommendation of them all. There is only one map in the Comprehensive Plan that makes land use recommendations. This map is on page 75 of the Plan. Although it shows the limits of four other study areas, it does not mention the '340 Study' area at all. It does, however show the 'Growth Area' as contemplated in recommendation 4.10. The property that the Applicant is requesting a map amendment is located squarely in this Growth Area. What better place to allow a mixed-use community, then one that is already mixed-use and is in the designated growth area where development should be concentrated pursuant to recommendation 4.10?

In addition to these Comprehensive Plan Recommendations, portions of the narrative also support this application. This discussion isn't intended to spark a debate on which narrative portions take precedent over others, since again this is in the eyes of reader. It merely identifies some sections of the Plan that are supportive of this request. Two of the Plan's policies include the following statements:

'This Plan encourages new development patterns that foster mixed-use neighborhoods so that a sense of community begins at the subdivision level'; and,

'This Plan encourages economic development so that residents can live and work in the County'.

Two of the Statement of Goals in the Plan state that the Plan should:

'Encourage growth and development in areas where sewer, water, schools, and other public facilities are available or can be provided without unreasonable costs to the community'; and,

'Encourage and support commercial, industrial, and agricultural activities to provide a diversified and sound local economy'.

With regard to the public services mentioned in the first statement, this property is already zoned Residential, so any commercial component would lessen the demand on schools (school impact fees are in place anyway). Also, public water and sewer are currently available on this site.

Page 71 of the Plan lists a shocking fact. It states that "Land zoned for commercial and industrial use makes up approximately 5% of the County, which is almost evenly split between the I-C District and the mixed use district". If this is true, it would appear to be very difficult for the County to meet recommendation 3.18 listed above (pursue commercial and industrial development); if there is only 5% of the land in the County is zoned for commercial use.

In conclusion, with regard to how this application relates to the Comprehensive Plan, it would appear that the requested map amendment is very much consistent and compatible with the 2004 Jefferson County Comprehensive Plan.

2. Change of Neighborhood

There have been significant changes in the neighborhood that would support the requested change from Residential Growth to the Mixed-Use Zone. These include the following:

Availability of Central/Public Water and Wastewater Treatment Facilities:

Public utilities were not available in this neighborhood when the original zoning ordinance was adopted. These services are now available in the neighborhood as well as directly on this property. As stated earlier, a goal of the Comprehensive Plan is to encourage growth and development where sewer and water services are available.

Adjacent and Confronting Zoning, Commercial and Industrial Subdivision Approval and Intensity of Use has changed:

The zoning classification on the property directly across Route 340 was recently changed from Residential Growth to the Mixed-Use district. As such, the applicant's property is now bordered on the East (River Riders) and the North (Shenandoah Professional Building) by property zoned Residential/Light Industrial/Commercial. This same logic should apply to the applicant's property, especially since this property has had commercial uses on it longer than those adjacent and confronting properties.

Since the adoption of zoning, the intensity of use on the adjacent and confronting properties has also increased. River Riders has greatly expanded their operation to the benefit of the region and the Shenandoah Professional Building is a converted residential structure.

In additions to those changes and expansions, the adjacent Old Standard Quarry is now an approved recorded commercial/industrial subdivision. This is certainly a change in the neighborhood that should favorably justify this application.

Also in the immediate neighborhood, the former Cliffside Inn has undergone extensive renovations to become a Quality Inn. Its renaissance has made it a much more desirable destination.

Addition of the Park Service Parking Lot and Bus Transportation/Tourist Center:

The Park Service parking lot and transportation center was added since the adoption of the zoning ordinance. This parking and transportation has enhanced the transportation network in the area. It also converted open land into a paid parking lot.

Addition of Commercial and Residential Uses in the Neighborhood:

Besides the Shenandoah Professional Building, at least two new commercial enterprises have opened in the immediate neighborhood. These include Through the Garden Landscaping and Meadow's Nursery. These businesses were opened after the zoning ordinance was adopted and are adjacent to two residential developments that were developed after zoning was adopted. These additions further demonstrate that the neighborhood has changed into a mixed-use neighborhood.

Most recently, the Customs and Border Patrol began one of the largest nonresidential developments in the neighborhood. Regardless of who owns it, it is a massive complex that includes offices and training facilities, among other uses. It can't be ignored as a significant change in this particular neighborhood. Based on intensity of use, it is a significant quasi-commercial development in this area.

There have been multiple changes in the slightly expanded neighborhood that would support a change to the Residential/Light Industrial/Commercial District. These include the addition of Eckels-Spencer Funeral Home, the Sears Store along with the multi-unit commercial and warehousing complex in which it is located, the new Sheetz store, the Aldi Grocery Store, Rock and Tile (formerly The Lumber Yard), the Farm and Tractor Supply Store under construction, the zip-line operation along the Potomac River and the townhouse development at Windmill Crossing. All of these projects were developed after the zoning ordinance was adopted. Not only does this demonstrate that the neighborhood has changed to mixed-use, it also demonstrates that mixed-use must be consistent with the Comprehensive Plan, since all of these projects were approved in the past ten or so years.

Finally, with regard to changes in the area since the zoning ordinance was adopted, no discussion would be complete without mentioning the addition of slot machines and table games at the Charles Town Race Track. These enhancements to the Race Track have increased incoming visitors to this area of Jefferson County. Accordingly, the Route 340 Corridor needs to change in order to accommodate the additional commercial growth needed to serve these visitors.

3. Change of Transportation Characteristics (from when the original ordinance was adopted):

There have been many changes in the transportation characteristics in this area since the adoption of the zoning ordinance. These include: the reconstruction of the Route 340 Bridge over the Shenandoah River; a new traffic signal at the intersection of Route 230 and Route 340; a new traffic signal at the intersection of Route 24 (Country Club Road) and Route 340; the improvement of the Shipley School access to Route 340; and, the addition of the previously mentioned Harpers Ferry Parking Facility and Bus Transportation Center along Route 340 near Bolivar. There is also a proposed traffic signal and intersection realignment planned at the Customs and Border Patrol Complex. Furthermore, the Planning Staff has reported that West Virginia, Virginia and Maryland are in serious discussions with regard to improving the Route 340 Corridor in the area of the Shenandoah and Potomac Rivers.

All of these improvements have had a positive effect on the transportation characteristics and traffic flow in this area. The opening of the new four lane Route 9 towards Leesburg should also have a positive effect on the traffic flow along Route 340.

Furthermore, the proposed map amendment from Residential Growth to Residential/Light Industrial/Commercial should have very little impact on traffic, since the property is already zoned for high density residential and the site is already utilized commercially.

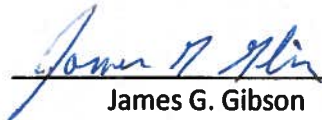
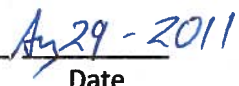
4. Error in the Zoning Map:

The applicant's property had a mix of commercial and residential uses on the property when the original Zoning Ordinance and the Residential/Light Industrial/Commercial District were adopted. As such, the property should always have been included in this mixed-use zone. The property contains the Allstadt residence and an Ordinary which was built in the late 18th Century. An Ordinary was a commercial tavern and meeting place. This reference is to show how early the property was utilized both residentially and commercially. More recently, the property was used as a drive-in movie theater from 1952 until 1983; and, as a large flea market from 1983 until the present. The property also contains the Wilt Fruit Stand and farmers' market, which has been open since 1968. The dwellings have remained on the property.

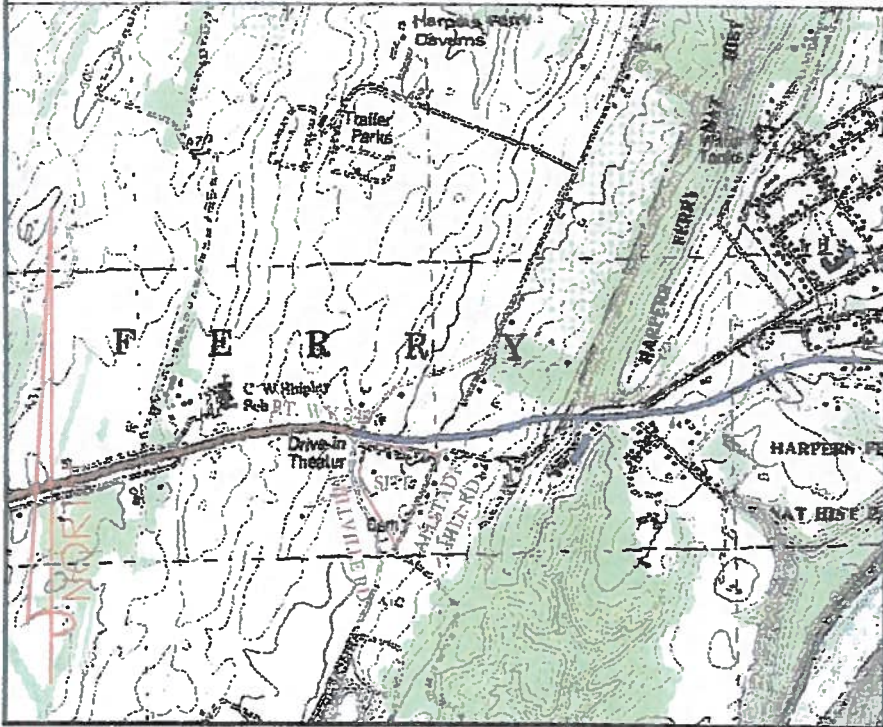
When the Zoning Ordinance was adopted in 1988 and continuing today, the applicant's property contained a large flea market, a fruit stand and several dwelling units. Furthermore, the property is adjacent to one of only a couple of 'Primary' access roads in Jefferson County as defined on a map in the 1987 Comprehensive Plan (the Plan that was in effect at the adoption of the original Zoning Ordinance) and on the same map in the 2004 Comprehensive Plan. Accordingly, the property should have been always been zoned Residential/Light Industrial/Commercial.

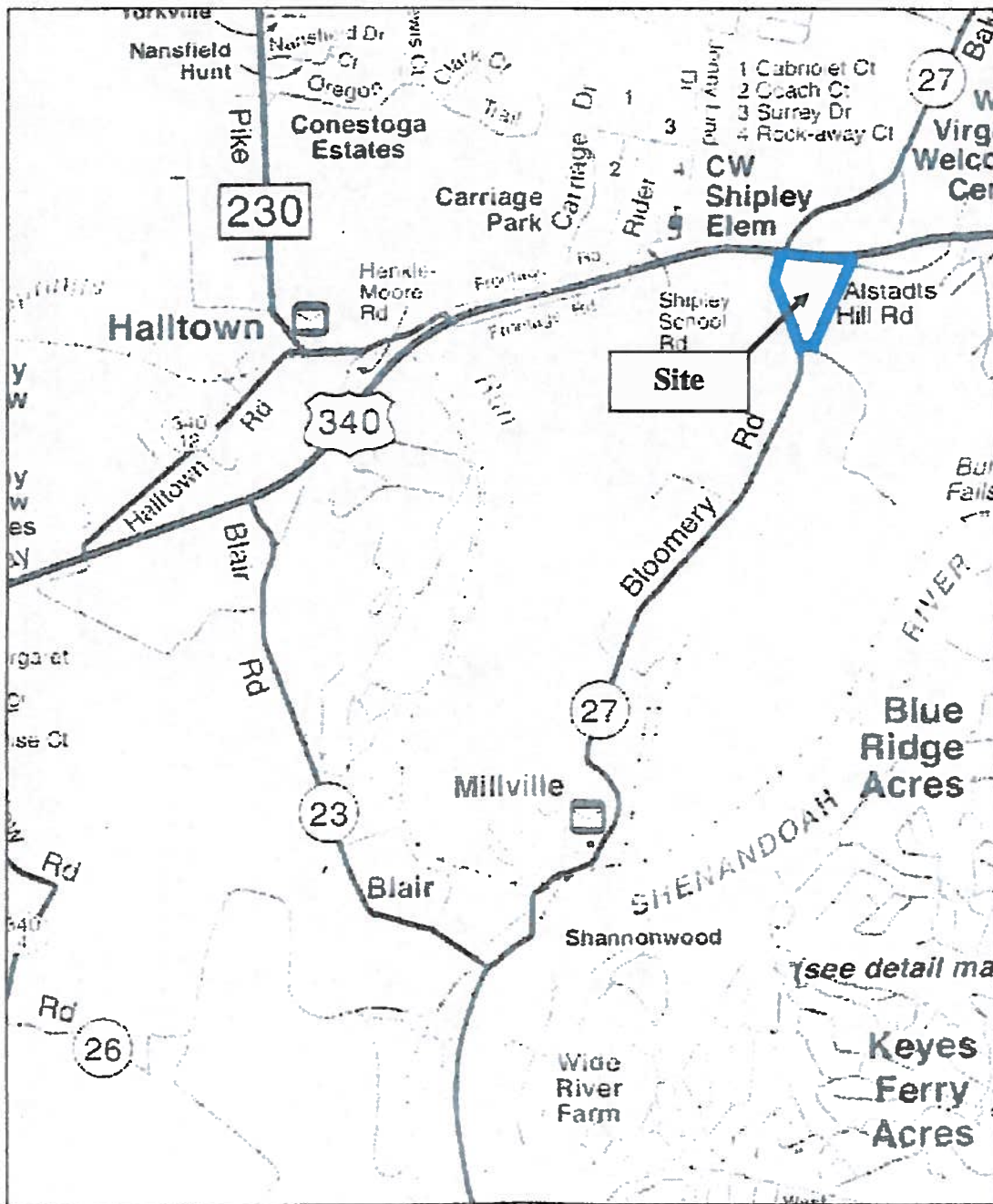
5. Conclusion:

The Applicant is requesting that the County Commission of Jefferson County approve a map amendment to the Jefferson County Zoning Map. This map amendment will change the zoning classification on the applicant's property from the Residential Growth District to the Residential/Light Industrial/Commercial District. This request is supported by the 2004 Jefferson County Comprehensive Plan, along with the other reasons set forth in this petition, which include the Change of Neighborhood and the Error in the Zoning Map.

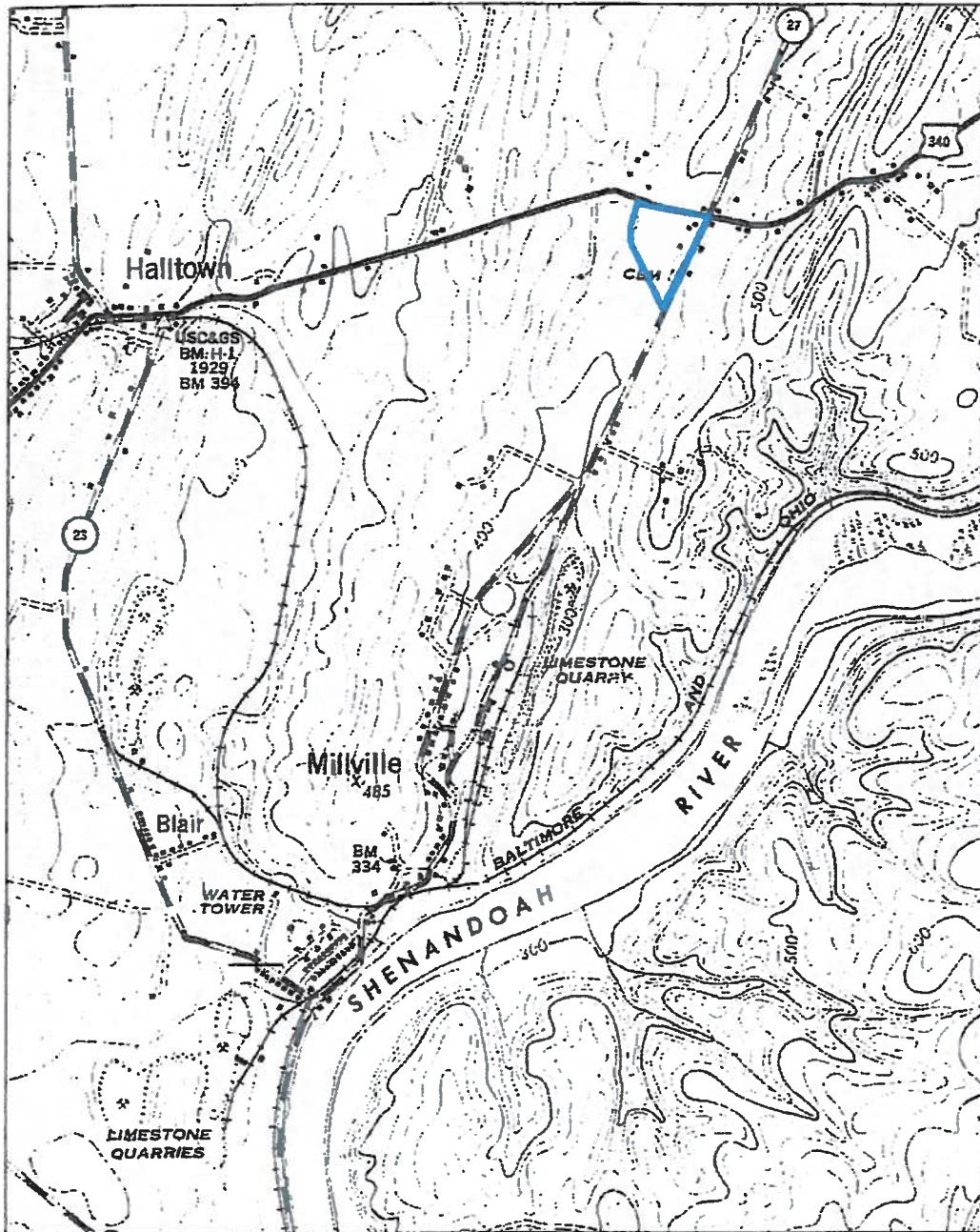
	
James G. Gibson	Barbara S. Gibson
<u>Aug 29 - 2011</u>	<u>8/29/11</u>
Date	Date

LOCATION INSET
SCALE: 1" = 2000'



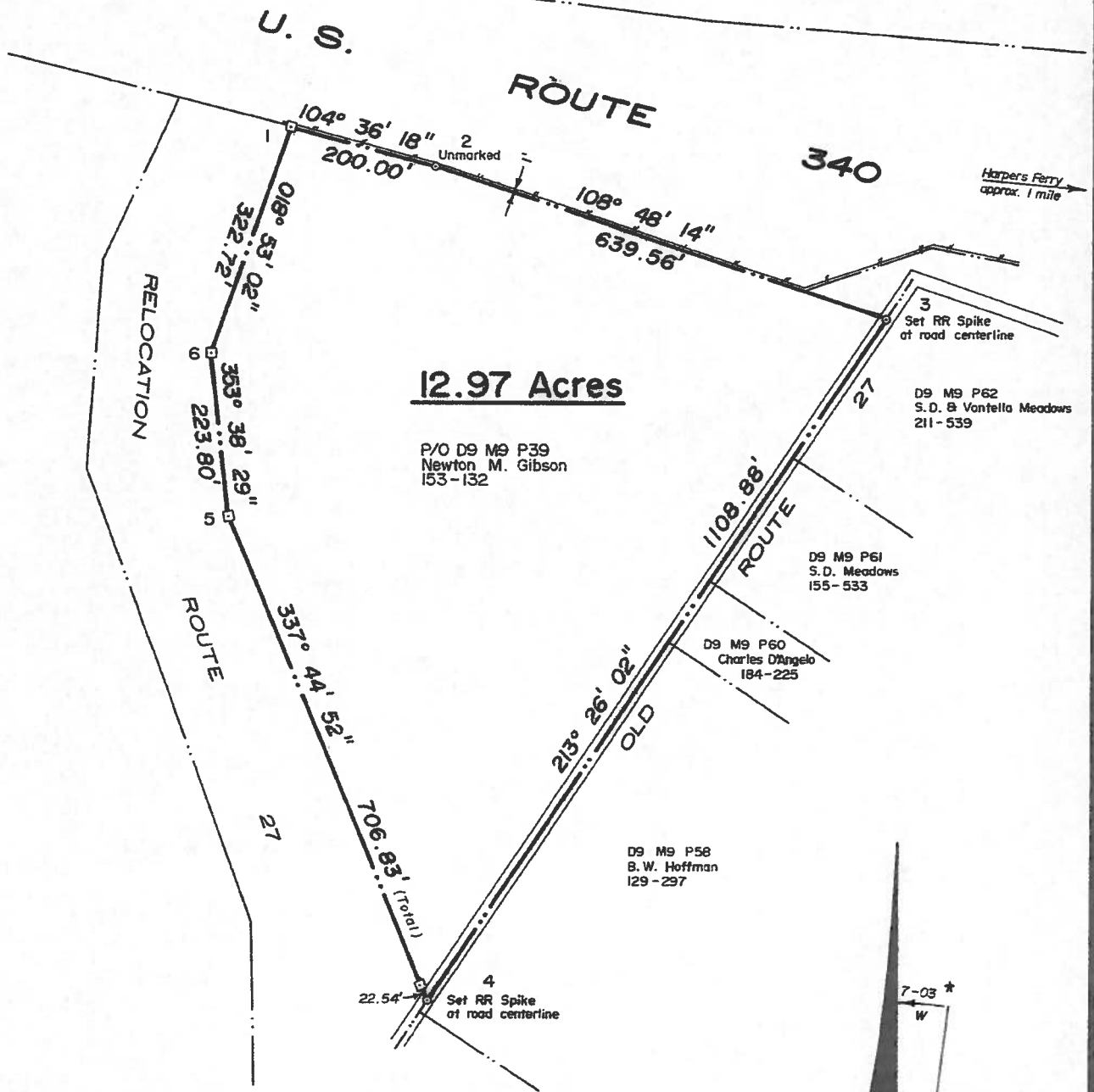


Location of Gibson/Flea Market Property



USGS Map of Property

□ = Dept. of Highways Concrete Monument



12.97 Acres

P/O D9 M9 P39
Newton M. Gibson
153-132

D9 M9 P62
S.D. B Vantella Meadows
211-539

D9 M9 P61
S.D. Meadows
155-533

D9 M9 P60
Charles D'Angelo
184-225

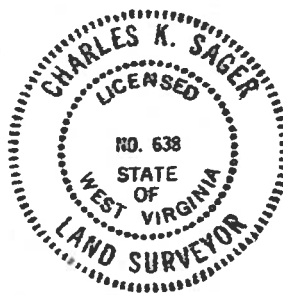
D9 M9 P58
B.W. Hoffman
129-297

Plat of Survey
showing a portion of the
Newton M. Gibson property

Harpers Ferry District
Jefferson County, W.Va.

Scale : 1" = 200'
Surveyed : 06 June 1981

Charles K. Sager
Jefferson County Surveyor



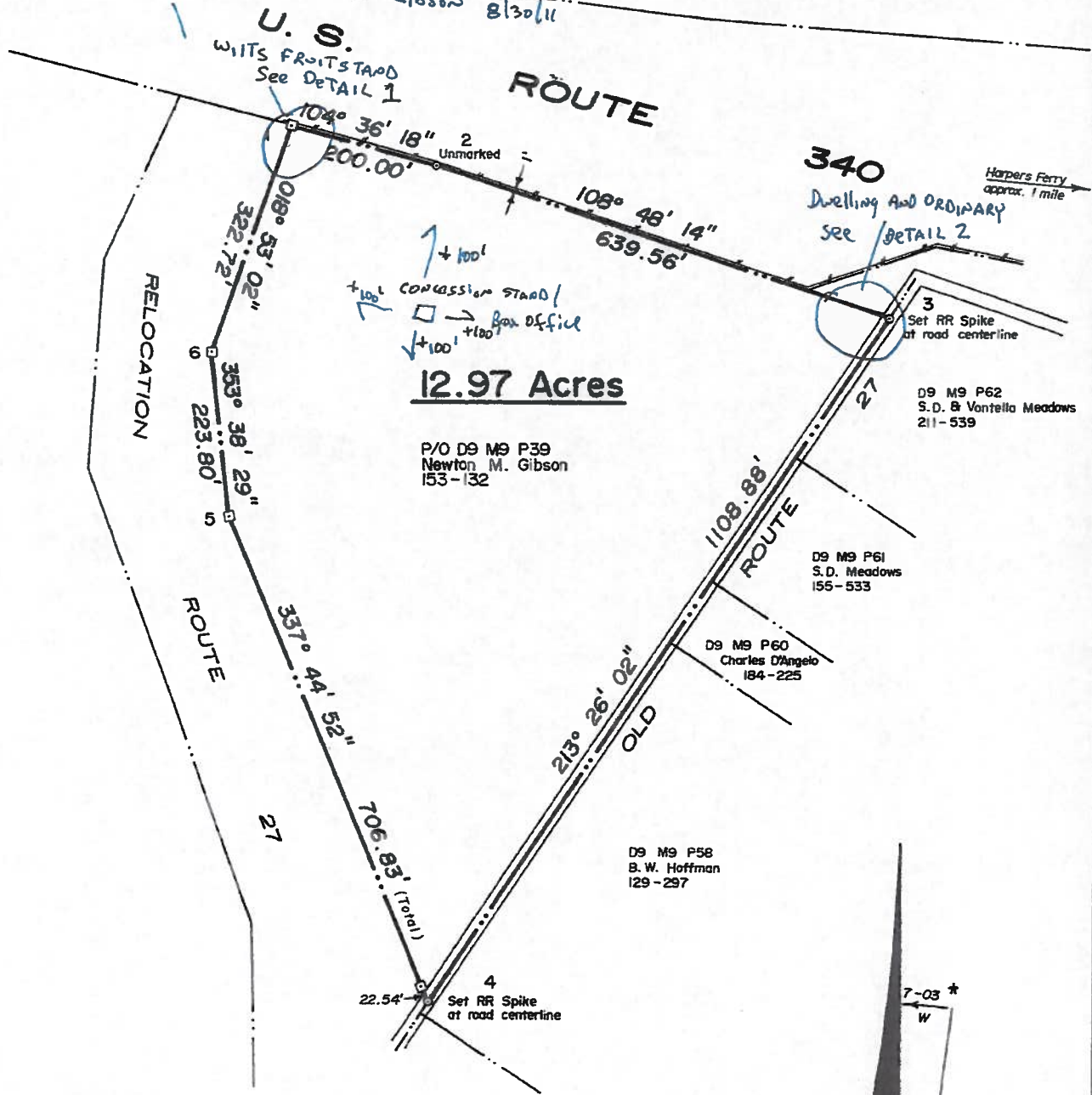
*Declination
measured
at the
Ranson, WV
Magnetic
Station
June 1979.*

APPALACHIAN SURVEYS, INC.

P.O. BOX 35
CHARLES TOWN, WV 25414

Illustrations by James Gibson 8/30/11

□ = Dept. of Highways Concrete Monument



12.97 Acres

P/O D9 M9 P39
Newton M. Gibson
153-132

D9 M9 P62
S.D. & Vontella Meadows
211-539

D9 M9 P61
S.D. Meadows
155-533

D9 M9 P60
Charles D'Angelo
184-225

D9 M9 P58
B.W. Hoffman
129-297

Plat of Survey showing a portion of the **Newton M. Gibson property**

Harpers Ferry District
Jefferson County, W.Va.

Scale : 1" = 200'
Surveyed : 06 June 1981

Charles K. Sager
Jefferson County Surveyor

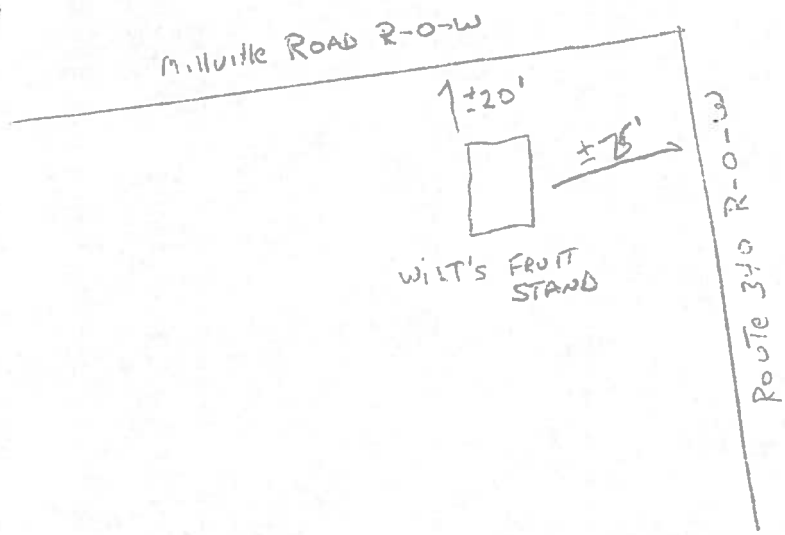


Declination measured at the Ranson, WV Magnetic Station June 1979.

MAGNETIC NORTH

APPALACHIAN SURVEYS, INC.

P.O. BOX 35
CHARLES TOWN, WV 25414



Detail 1



DETAIL 2

This information is
Tab #5 in your binder.

UPCOMING SUBDIVISION REGULATION AMENDMENTS

Topic	Sub Reg Section	Brief Description of Public Comment	Staff Comment
Section Specific Amendments			
Outdoor recreation	General	Define; parking standards? Gravel parking?	Needs clarification in the Zoning Ordinance
ILP	General	Are all of the ILP regulations detailed within the Sub Regs	Staff initiated
Site Plan Requirements	App. B, 9.2	Is info outlined all applicable to non-residential site plans?	This section states heavy industrial use. However, staff will attempt to clarify this section further.
Site Plan Requirements	App. B, 9.1.B	Clarify	Only Section 9.2 applies to heavy industrial use. All other sections are applicable to all site plans. Staff will suggest an amendment to clarify
Street lighting	22.209	Eliminate requirement for lights at intersections.	requires more research
Roof drain Discharge Points	22.401.B	Require erosion control; make grading part of ordinance	requires more research
Sidewalks	22.208	Do not require sidewalks in all non-residential developments.	needs policy input
Electronic Signage	App. B., 9.3	Disallowance of electronic signage	
Block	Div. 21.100	topography not conducive to block layout. Restrictiveness of lots per block also not workable	need to research application in rural areas

Topic	Sub Reg Section	Brief Description of Public Comment	Staff Comment
SWM and Natural Resources Amendments			
Protection of Resources and Trails	22.504 and Generally	<p>Wants resource protection strengthened, require LIDs, provide for mitigation and penalties to ensure soil stabilization, strengthen riparian buffers, slope protection, and enforcement provisions</p> <p>-----</p> <p>Concerned that there is no reduction in protection for the trail as federally legislated, recommends consulting foresters for data to use in analysis</p>	Research to strengthen environmental protection and trail protection standards needed
Subdivision Plat General Review Standards, Natural Resources	20.302.B	<p>Remove wetlands and flood plain listings b/c feds take care of this already.</p> <p>-----</p> <p>Remove PC's ability to make comment @ Concept Plan stage because there are no definable standards for natural resources/protection.</p>	
SWM and SWM Easements	Generally and specifically 21.402.B	<p>Include Chesapeake Bay requirements - Clarify intent of easement.</p> <p>-----</p> <p>Prevention of erosion for Chesapeake Bay Initiative.</p> <p>-----</p> <p>Give cubic feet per second (CFS) for stormwater easements.</p>	requires additional research and input from engineering -- Region 9 developing model SWM regs
Churches	General	<p>Occasional special event? Overflow parking? Grasscrete- SWM requires gravel to be impervious due to Ches. Bay Standards.</p>	

Topic	Sub Reg Section	Brief Description of Public Comment	Staff Comment
Elk Branch/watershed and Streams/Elk Run Study	22.504.B.3/ General	<p>Increased standards for the Elks Run watershed may be excessive.</p> <p>-----</p> <p>Strengthen buffer restrictions for the Elk Run/Branch watershed areas to 500-1000 ft.</p> <p>-----</p> <p>Consider requirements that allow different setbacks for septic and wells along streams; wants to incorporate the finding of the Elk Run study</p>	needs further discussion and research/policy input
Natural Resources are not defined	20.302.B.2	Naturals "areas"	Natural resources are defined within the text of Section 20.302.B.2 and each resource is further defined within the definitions section. Staff will consider language.
Rural Development	20.203	Clarify LID techniques	LID techniques were clarified with the 2010 amendments. However, Staff feels that further refinement is necessary.
Process/Procedure Amendments			
Master Plan	24.107	A concept plan is only good for 2 years. It would not be feasible for a major development to be completed in this timeframe. A master plan/full build out would be more beneficial built slowly over time. Existing water/sewer plants? Self served communities?	Approved Preliminary Plat/Site Plan does not expire for 5 years. Applicant can state at Concept Plan stage that the build out will take longer.
Zoning ordinance changes	24.109-24.112	Zoning ordinance changes made after the preliminary plat is approved should not be made conditions of approval of the final plat.	Staff needs to research the effects of having any amendments done in the 2nd year of approval control and how that may affect any design already done on a given project
Pre-proposal Conference	24.103	Change the scheduling of a PPC from 15-days prior to the 1st & 3rd Wednesday with submittals required 1 week prior.	Submittals are required for review and research. However, timeframes can be discussed.

Topic	Sub Reg Section	Brief Description of Public Comment	Staff Comment
Major Site Plan Application - public hearing	24.125	Require the staff to post signs & charge applicant for service	The County Commission has denied fees. This amendment will require staff discussion.
Final Plat process	21.114	remove this from the public hearing process	This amendment would require a change in State Law
Amendments	24.200	Suggest adding an option to modify a site plan if there are more significant changes than allowed to be approved by the Zoning Administrator. These changes would come before the planning commission for approval. Add a Section C under 24.201 to allow for Substantial Compliance with Previous Approval <u>WITH</u> material changes such as increased paving (adding a few parking spaces), modification of building location, addition of amenities, etc. The determination of what is material changes is spelled out pretty clearly under Section B, but the determination can be made by the Zoning Administrator and appealed to the planning commission.	needs staff review and possibly policy input
Built Resource Protection			
Demo Permit Requirement	General	Require a demolition permit for historic structures	
Historic Landmarks Commission	20.302 and 20.303	The HLC would like to be involved in review sooner than the regulations now allow.	needs to be discussed

Topic	Sub Reg Section	Brief Description of Public Comment	Staff Comment
General Amendments			
HOA covenants	General	Concerns about the lack of enforcement of covenants by the County, discussed state law issues and possible ways to address this issue through the amendments	Needs to be discussed
HOA approvals	24.126	Concerns regarding HOAs and the uniform common interest code provisions; would like to have HOA approval prior to issuance of a building permit	Needs to be discussed
Incomplete subdivisions	General	How to protect current taxpayers from the burden of incomplete subdivisions where the developer cannot afford to finish. (Phasing)	needs policy input from PC to include possible phasing
Public Easements	21.402	The County is trying to dictate easements between private parties.	needs more research
Greater Compatibility	20.302.C.2.a	Create definition	

This information is
Tab #6 in your binder.

This information is
Tab #7 in your binder.

BYLAWS OF THE JEFFERSON COUNTY PLANNING COMMISSION

Article I - General

Section 1.1 – References

As used throughout these Bylaws, “Planning Commission” shall refer to the Jefferson County Planning Commission, and “County Commission” shall refer to the County Commission of Jefferson County, both of Jefferson County, West Virginia. The term “item” as used herein shall refer to any matter before the Planning Commission for consideration or discussion, and shall be construed broadly.

Section 1.2 – Authority

These bylaws and its provisions are authorized by W.Va. Code § 8A-2-11, which empowers the Planning Commission, among other things, to “(2) Prescribe rules and regulations pertaining to administration, investigations and hearings[,]” provided that the same are adopted by the County Commission.

Section 1.3 – Severability

The invalidation of any provision or section of these Bylaws shall not invalidate any other provision or section of these Bylaws.

Section 1.4 – Amendments

These Bylaws may be amended at any regular meeting of the Planning Commission by a majority vote of the Planning Commission, and shall take effect upon adoption by the County Commission or at a date certain thereafter.

Article II - Organization

Section 2.1 – Membership

The Planning Commission, by ordinance previously adopted by the County Commission, shall be comprised of nine (9) members appointed by the County Commission pursuant to W.Va. Code § 8A-2-4.

Section 2.2 – Term of office

Upon appointment to the Planning Commission, a member shall serve a term of three years pursuant to W.Va. Code § 8A-2-4(g).

Section 2.3 – Powers and Duties

In addition to the powers and duties provided in these Bylaws, the Planning Commission shall have such other powers and duties as provided by law, including but not limited to W.Va. Code § 8A-2-11.

Section 2.4 – Committees

The Planning Commission may establish one or more committees to which, pursuant to W.Va. Code § 8A-2-11 (15), it may delegate limited powers. Committees shall consist of no less than

three (3) members nor more than five (5) members of the Planning Commission. Appointments to committees shall be made by a majority vote of the Planning Commission.

Article III - Officers

Section 3.1– Elections

At its first regular meeting each January, the Planning Commission shall elect a President, Vice President, and Secretary.

Section 3.2 – President

The President shall preside at all public hearings and meetings held by the Planning Commission. The President may call special meetings of the Planning Commission as necessary, and is empowered to certify by signature or otherwise any official and valid action of the Planning Commission. The President shall also perform such duties and functions as may from time to time be required by the Planning Commission.

Section 3.3 – Vice President

During any absence of the President, the Vice President shall assume the duties and functions of President. The Vice President shall also perform such duties and functions as may from time to time be required by the Planning Commission.

Section 3.4 – Secretary

The Secretary shall perform such duties and functions as may from time to time be required by the Planning Commission.

Section 3.5 – Absence of President and Vice President

In the absence of both the President and Vice President, any present member may call to order a regular or special meeting of the Planning Commission, which shall thereupon immediately empower one or more of its present members to fulfill the duties and functions of President and/or Vice President during said absence.

Section 3.6 – Replacing Officers

In the event of the death, resignation, or removal of an officer of the Planning Commission, the Planning Commission shall thereupon elect one of its members to complete the unexpired term. A three-fifths majority of the total membership of the Planning Commission may, at any regular meeting, remove the President and/or the Vice President from office, provided that a new election to fill the remaining term(s) of office is immediately held.

Article IV - Meetings

Section 4.1 – Regular Meetings

The Planning Commission shall hold regular meetings on the second ~~and fourth~~ Tuesdays of each month at 7:00 p.m. in the ground floor meeting room of the Old Charles Town Library, at 200 East Washington Street, Charles Town, West Virginia. Prior notice shall be provided in the event that any regular meeting is held at a different location. An additional regular meeting may be called scheduled by the President or by two or more members of the Planning

[Commission for an specific agenda item on the fourth Tuesday of each month at 7:00 p.m. at the location noted in this section. Such regular meeting shall be called at least seven \(7\) days prior to the fourth Tuesday to allow for posting of the agenda.](#) A regular meeting may be postponed or cancelled for appropriate reasons, and in such case prior notice of said postponement or cancellation shall be provided if possible.

Section 4.2 – Special Meetings

A special meeting may be called by the President or by two or more members of the Planning Commission to be held on a different day and/or a different time than regular meetings. Pursuant to W.Va. Code § 8A-2-7, notice for all special meetings shall be in writing, include the date, time and place of the special meeting [as well as the purpose of the meeting](#), and be sent to all members at least two days before the special meeting. A special meeting may be postponed or cancelled for appropriate reasons, and in such case prior notice of said postponement or cancellation shall be provided if possible.

Section 4.3 – Recording of Meetings

All meetings of the Planning Commission shall be recorded, and such recordings shall be maintained and made available, upon request and in accordance with the procedures of the Planning Commission and/or its staff, to the public.

Section 4.4 – Agendas

An agenda shall be made available [at least seven \(7\) days](#) prior to the start of all regular and special meetings. Items shall be listed on the agenda in such a manner as to sufficiently identify the substance of the item and allow for a vote on the item by the Planning Commission if necessary. The Planning Commission may deviate from an agenda's order if necessary.

Section 4.5 – Quorum

In order to conduct a regular or special meeting, a quorum of the members must be present. A majority of the members of the Planning Commission shall constitute a quorum. No action of the Planning Commission shall be official or valid unless authorized by a majority of members present at a regular or special meeting.

[An individual confined to home due to serious illness or injury may attend the Planning Commission meeting via telephone with prior approval of the President and will count towards a quorum.](#)

Section 4.6 – Procedures for Conducting Meetings

In the absence of state law or of other procedures of the Planning Commission, Roberts Rules of Order, current edition, shall be the parliamentary authority of Planning Commission meetings.

Section 4.7 – Open Governmental Proceedings

All meetings and actions of the Planning Commission shall comply with the requirements of West Virginia's open meetings laws, codified at W.Va. Code § 6-9A-1, et seq.

Section 4.8 – Training

All newly appointed Planning Commission members shall attend a two hour training session within 90 days of their appointment to the Planning Commission. Such training may be provided by the County staff, by an APA approved or recommended organization and/or through a webinar provided by APA or another authorized organization. The focus of this initial training will be to provide an orientation to the roles, responsibilities and duties of a Planning Commission member.

Annually, all PC members shall attend a two hour training session provided by County staff, by an APA approved or recommended organization and/or through a webinar provided by APA or another authorized organization. Staff shall make the Commissions members aware of local training opportunities and/or shall provide access to webinars to provide the Planning Commission members with a variety of training opportunities.

Planning Commission members shall be encouraged to attend local, regional, and/or national on-site or webinar planning training sessions. As the Planning and Zoning budget allows, assistance may be provided for registration for such training.

Section 4.9 - Attendance at Regular Meetings

Regular attendance of all Planning Commission members is critical to the effective functioning of the Planning Commission. Planning Commissioners shall strive to attend all Regular Meetings. Accordingly, if a Commissioner, over a consecutive six month period, misses six Regular Meetings with notice, or four Regular Meetings without notice, the Planning Commission may forward this information to the County Commission with the request that the County Commission consider removal from the Planning Commission due to a lack of interest.

Article V – Consideration of Items

Section 5.1 – Voting

A member must be or have been physically present at a meeting to vote on any item considered at said meeting. However, an individual confined to home due to serious illness or injury may attend the Planning Commission meeting via telephone with prior approval of the President. The individual will count towards a quorum and will have full voting privileges.

Voting via ~~telephone or~~ proxy is not permitted. Abstention shall not be permitted by a member who is otherwise entitled to vote on an item.

Section 5.2 – Recusal

A member may recuse himself/herself in relation to an item for the reasons set forth herein, in which case such member shall not participate in discussion, consideration or vote on said item. Valid reasons for recusal include (1) having a personal interest in an item, (2) having a contractual, employment, or other relationship with a party involved with an item, (3) being unable to impartially consider an item, or (4) having been absent from part or all of the discussion or consideration of an item. A member recusing himself or herself shall thereupon state the reason for such recusal and leave the meeting, remaining absent for the duration of consideration and/or discussion of the item.

Section 5.3 – Ex Parte Communications

For purposes of these Bylaws, ex parte communications consist of communications regarding the substance of an item that is or will be before the Planning Commission for consideration and/or discussion, when such communications are between one or more members of the Planning Commission and one or more individuals involved with the item. No member of the Planning Commission shall voluntarily and knowingly engage in ex parte communications without the authority of the Planning Commission. In the event that a member of the Planning Commission has engaged in or receives any ex parte communication, said member shall bring the same to the attention of the Planning Commission. Communications with third parties regarding procedural aspects of items do not constitute ex parte communications in the context of these Bylaws.

Section 5.4 – Ex-Officio Member Voting

A member who is also a member of the County Commission is a full voting member of the Planning Commission. However, any such ex-officio member may elect not to vote as a member of the Planning Commission on items which will subsequently require action or consideration by the County Commission.

An ex-officio member may remain at the meeting and participate in discussion on an item on which they elected not to vote under this section.

This information is
Tab #9 in your binder.

JEFFERSON COUNTY, WEST VIRGINIA
Department of Planning & Zoning
116 East Washington Street, 2nd Floor
P.O. Box 338
Charles Town, West Virginia 25414

Email: planningdepartment@jeffersoncountywv.org
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Director's Report
September 13, 2011
Planning Commission Meeting

- 1) Activity Report (attached)
- 2) Reminder about next US 340 Corridor - East Gateway Plan Public Meeting

“As you prepare to enjoy a celebration of the HISTORY of Charles Town at their 225th Birthday/Heritage Festival, join us for an opportunity to have an impact on the FUTURE of the US 340 Corridor - East Gateway from Charles Town to Harpers Ferry. The next Public Meeting regarding the US 340 East Gateway Plan will be held on **Saturday, September 17, 2011, 10 am – 12 noon in the basement of the Old Charles Town Library**. The meeting will include a report back on “what we heard” through the public input received at the June Public Meeting and the MetroQuest on-line visioning input site and well as a review of draft alternative future land use scenarios based on the input received. Public input on a preferred vision for the one-mile corridor on both sides of the US 340 between Charles Town and Harpers Ferry will be discussed and brainstormed. Be a part of the vision for this corridor and contribute to the future of your community.”
- 3) Regional Staff activities:
 - a) Attended a meeting for interested parties and potential neighbors to the proposed new Shepherdstown Library to be located west of town. Included a presentation by Richard Anderson, an architect with Shepherdstown, who initiated a visioning session and a discussion of ways in which we might share ideas regarding access, storm water management, and infrastructure. (8/10/11)
 - b) WIP II Chesapeake Bay Summit Meeting (8/31/11)
- 4) Upcoming CC agenda items:
 - a) On August 18, 2011, public hearings for two Zoning Ordinance text amendments and two Subdivision Regulation text amendments were scheduled for September 15, 2011, 7 pm:
 - i. Recommended Text Amendment for certain portions of the Subdivision and Land Development Regulations regarding maximum square footage requirements for a Minor Site Plan in each Zoning District
 - ii. Recommended Text Amendment for Articles 4A and Section 2.2 of the Zoning and Land Development Ordinance and Section 20.203 of the Subdivision and Land Development Regulations, regarding Home Occupations and Cottage Industries

- iii. Recommended Text Amendment to Article 12 of the Jefferson County Zoning and Land Development Ordinance regarding the process of amending the zoning map and/or text
 - iv. Recommended Text Amendment to Article 24 of the Subdivision and Land Development Regulations regarding time frames and noticing requirements for processing procedures
- b) Hott Rezoning Recommendation (*submitted for 9/8/11*)
 - c) Shepherdstown Town Council's Proposed Urban Growth Boundary (map attached, *submitted for 9/15/11*)
- 5) Upcoming PC meetings:
- a) No second meeting scheduled for September at this time
 - b) October 11, 2011
 - Hite Road Park Concept Plan