



AGENDA  
Jefferson County Planning Commission  
Tuesday, July 12, 2016, 7:00 PM

Planning Commission meetings are held in the Old Charles Town Library Meeting Room located at 200 East Washington Street, at the side entrance on Samuel Street in the City of Charles Town.

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**All Citizens that desire to speak must sign-in prior to the Agenda Item being addressed.**

1. Approval of the minutes from the following Planning Commission Meetings:
  - June 14, 2016
2. Citizen Communications: If you wish to comment, please sign-in to speak for issues that are not on the agenda or items that are not open for public comment. Items not open for public comment will be so noted.
3. Request for postponement.
4. **Public Hearing:** Request by applicant Jefferson County Convention & Visitors Bureau. (PCW#16-05) for a waiver from Appendix B, Section 2.5(C) that requires all parking lots and parking bays (except for parallel parking along a townhouse/ condominium complex street) to be physically separated from the street and confined by curbing, unless other suitable design is approved by the County Engineer. The property is designated as Tax District: Harpers Ferry (04); Tax Map: 7; Parcel: None Assigned; Zoned: Rural (R); Size: .64 acres; Owner: Jefferson County Commission; Developer: Jefferson County Convention & Visitors Bureau.
5. **Public Hearing:** Request by applicant Nina Lynch (PCW#16-06) for a waiver from Section 20.201(A)2 of the Subdivision Regulations which allows lots in the Rural District with a minimum road frontage of 200' to front on an existing road right of way having a width of 50'. The proposed lot has 40' of access via a pipestem to Leetown Road. The applicant is also requesting a waiver from Appendix B, Section 2.3(A)1 which requires individual lots to be served by internal subdivision roads. The property is designated as Tax District: Middleway (07); Tax Map: 8; Parcel: 3.46; Zoned: Rural (R); Size: 18.19 acres; Owner/Developer: Nina Lynch

**There is no public comment for the remaining items.**

6. Discussion and action on the proposed text amendment to multiple sections of the Jefferson County Zoning and Land Development Ordinance (ZTA 16-01). This is a follow up to the Planning Commission modifications heard at the Public Hearing held on June 14, 2016. This text amendment proposes to replace the current nontraditional zoning ordinance with a traditional zoning ordinance by eliminating the DRS/LESA CUP Process (Articles 6 and 7) and replacing it with a traditional Principal Permitted and Conditional Use process; proposes to increase the density provisions of the Rural Zoning Cluster Development Provisions in Section 5.7; and proposes related rural land use amendments throughout the Ordinance.
7. Reports from Legal Counsel and legal advice to the Planning Commission.
  - a) Active Litigation:
    - Far Away Farms: Report on legal action in Jefferson County Circuit Court, Case # 11-C-325 Possible Executive Session.

- Shiloh Citizens Association: Report on legal action in Supreme Court, Docket #15-1031 Possible Executive Session.

8. Director's Report.

9. President's Report.

10. Actionable Correspondence.

- Review and consideration of the revised definition of Battlefields as proposed by the Historic Landmarks Commission with input from the Farmland Protection Board.

11. Non-Actionable Correspondence.

All files are made available for public review Monday through Friday, 9:00 AM to 5:00 PM (excluding Holidays). The Planning Commission welcomes written comments at any time. Submitting a document no later than the Thursday before a scheduled meeting will provide the Commission an advanced opportunity to review your comments prior to the meeting. Please note that documentation and exhibits submitted at a Planning Commission meeting are retained as part of the official record. Feel free to submit your comments to office of the Departments of Planning and Zoning.

Any party desiring a transcript of these proceedings will be responsible for providing a competent stenographer at their own expense. Minutes, video and/or audio recordings of past meetings, the Jefferson County Subdivision Regulations, Zoning Ordinance and Comprehensive Plan, as well as any working proposed amendments are located on the Departments page within the County's website at [www.jeffersoncountywv.org](http://www.jeffersoncountywv.org). Minutes and audio recordings of older meetings that are not on the County's website are available for review in the office.

**DRAFT**

Jefferson County Planning Commission

June 14, 2016

The Jefferson County Planning Commission met on June 14, 2016 with the following Commission members present: Mike Chapman, President; Wade Louthan, Vice President; Donnie Fisher, Secretary; Steve Stolipher, Gary Phalen, and J Ware. Staff members present included Jennie Brockman, Director of Planning and Zoning; Lydia Lehman, Assistant Prosecuting Attorney; Jonathon Saunders, County Engineer; and Rhonda Greenholtz, Planning Clerk

Mr. Gene Taylor and Mr. Dickie Childs were absent with prior notification.

Mr. Eric Bell was absent without prior notification

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

1. Approval of the minutes from the following Planning Commission Meetings

- April 12, 2016
- May 15, 2016

The April 12, 2016 minutes were approved with no objections

The May 15, 2016 minutes were approved with the correction of Item #2 to read “Land Evaluation and Site (not Soils) Assessment (LESA)”.

2. Citizen Communications. None.

3. Request for postponement: None

4. **Public Hearing:** Request by applicant Uvilla United Methodist Church (PCW#16-03) for a waiver from Appendix B, Section 2.3 (B) of the Subdivision Regulations which requires that a non-residential subdivision entrance apron be constructed of WWF reinforced 3,000 psi Portland cement concrete. The applicant is proposing to utilize the existing asphalt entrance apron and is also asking for a waiver from the entrance width limit requirement. The property is designated as Tax District: Shepherdstown (09); Tax Map: 20; Parcel: 13; Zoned: Rural (R); Owner/Developer: Uvilla United Methodist Church.

Ms. Jennifer Brockman provided an overview of the request. She deferred to the County Engineer on this request.

Mr. Jonathon Saunders, County Engineer spoke. He stated that the applicant would not be utilizing the entire existing asphalt apron. The asphalt that was placed exceeds the standard cross section in Section 9.5. Due to the existing apron showing no signs of failure, the Engineering Department recommended approval provided the access was limited to light vehicles.

Mr. Ted Shiltz, Trustee for the Uvilla United Methodist Church spoke. The driveway has existed in excess of 12 years and has only been used once or twice a week for Church services and functions only. It is not for heavy commercial uses. Mr. Shiltz requested to be able to utilize the existing entrance. If the request is granted, they will reduce to the recommended size required. Mr. Shiltz also stated that the WVDOH installed the entrance and it is holding up very well.

Mr. Mike Chapman opened the floor to Public Comment. No Public comment was had.

Mr. Mike Chapman closed the floor to Public Comment.

Mr. Steve Stolipher made a motion to approve the waiver request to utilize the existing asphalt entrance apron and to approve the request to waive the entrance width limit requirement.

Mr. Gary Phalen seconded the motion. A vote was taken which carried unanimously.

5. **Public Hearing:** Request by applicants John R. & Judy L. Shea (PCW#16-04) for a waiver from Section 20.201(A) 2 of the Subdivision Regulations which requires lots in the Rural District to access a road right-of way having a width of 50'. The property is designated as Tax District: Kabletown (06); Tax Map: 16; Parcel 16.4; Zoned: Rural (R); Owner/Developer: John R. & Judy L. Shea.

Ms. Jennifer Brockman spoke. This property has a complex history and has been the subject of numerous previous requests to allow development utilizing the short section of a 30' wide easement immediately off of Steptoe Street. The applicants are proposing to create a new Parent-to-Child minor subdivision lot. All Minor Subdivisions are required to access a State Road via a 50' easement and have a maximum of five lots permitted to access an unimproved access easement. A portion of the easement containing Walking Horse Lane is only 30' in width and therefore the applicant is requesting this Planning Commission Waiver to allow the easement to continue as currently configured.

While it appears that five (5) lots currently access off of Walking Horse Lane, it has been determined that the lot at the corner of Steptoe Street and Walking Horse Lane is both addressed on and accessed off Steptoe Street. Therefore, this lot does not count toward the maximum number of lots that can access Walking Horse Lane. As such, the proposed Parent-to-Child lot constitutes the fifth lot on this access easement. Any future divisions along this easement will require Walking Horse Lane to meet County Grade Road Standards and will process as a Major Subdivision.

The Departments of Planning and Zoning defer to the Engineering Department on this request.

Mr. Jonathon Saunders, County Engineer spoke. If the required 50' easement is waived and the existing entrance is utilized, this would be the fifth lot having access to the 30' easement. This will process as a minor subdivision and no improvements are required. This approval will restrict all 5 lots from further subdividing under the minor subdivision process. Any further subdivision will be required to process under the major subdivision regulations unless a waiver is granted by the Planning Commission. The Engineering recommends approval of the requested waiver.

Mr. Mike Chapman opened the floor to public comment. No Public Comment was had.

Mr. Mike Chapman closed the floor to Public Comment.

Mr. Donnie Fisher made a motion to approve the request for a waiver from the right of way width requirement.

Mr. Wade Louthan seconded the motion. A vote was taken which carried unanimously.

6. Review and Possible action on the proposed text amendment to multiple sections of the Jefferson County Zoning and Land Development Ordinance (ZTA 16-01) heard at the Public Hearing held on May 17, 2016. This text amendment proposes to replace the current nontraditional zoning ordinance with a traditional zoning ordinance by eliminating the DRS/LESA CUP Process (Articles 6 and 7) and replacing it with a traditional Principal Permitted and Conditional Use process; proposes to increase the density provisions of the Rural Zoning Cluster Development Provisions in Section 5.7; and proposes related rural land use amendments throughout the Ordinance.

Ms. Jennifer Brockman presented a Matrix showing the Proposed Language in the Draft Amendment, Public Comment and Staff Recommendations. A copy of this Matrix is attached to and made part of these minutes. A brief synopsis is listed by Item number and the Planning Commission Direction for each item.

- 1) Section 2.2, Terms Defined: “Adaptive Reuse”. Planning Commission (PC) recommended approval of proposed definition.
- 2) Section 2.2, Terms Defined/PPU Chart: “Airfield, Private; Airfield, Private/Helipad”. PC recommended the addition of these items to the definitions and the PPU chart as permitted in the Rural (R), Industrial (I) and Commercial (C) zones.
- 3) Section 2.2 Terms Defined: Battlefields. The PC revised the proposed definition to read, “There are four Federally recognized battlefields in Jefferson county as determined by the Civil War Sites Advisory Commission. For the purpose of this Ordinance, green space includes core battlefield areas.
- 4) Section 2.2, Terms Defined: “Farm Market”. PC recommended the following revision: “A producer operated market for the sale of farm products, the majority of which are grown or produced on the producer’s land or farm and product incidental to farm products.”
- 5) Section 2.2, Terms Defined: “Green Space”. PC recommended keeping “core battlefields” in the definition.
- 6) Section 2.2, Terms Defined: Create a new Institutional Use; “Nature Center and Preserve” and define the use. PC recommended the definition be shortened and the details to be in Article 8 Supplemental Uses. PC also recommended the addition of “Nature Center and Preserve” with a shortened definition.
- 7) Section 2.2, Terms Defined: Define “Conditional Use permit” (CUP) and explain process for applying for a CUP. This is currently outlined in Section 3.4(A) b and c. An application form will be created with the PC approval. PC recommended approval of language currently included in the Section referenced above and approved the creation of an application form.
- 8) Section 3.4, Boards and Commissions: Addition of the roles and responsibilities of the Jefferson County Historic Landmark Commission (JCHLC). PC recommended deleting from Section 3.4. PC recommended moving the proposed No. 1 to the Definitions.

- 9) Section 3.4A, Boards and Commissions; Board of Zoning Appeals, Section 5.a.ii, 5.a.iii, 5.a.v. and 5.a.vii; PC recommended accepting staff's proposed changes to 5.a.ii and 5.a.v. PC recommended deleting 5.a.iii and revising 5.a.vi to read, "Operations in connection with the use shall be in conformance with Section 8.9 of this Ordinance.
- 10) Section 4A.5. Cottage Industry: PC recommended staff's proposed change.

Mr. Mike Chapman called for a break at 8:10 PM

Mr. Mike Chapman called the meeting back to order at 8:15 PM.

- 11) Article 1; Section 1.II, Article 5; Section 5.7 and Section 5.10: Public Water and Sewer in Rural and Village Zoning Districts. PC recommended approval of Staff's recommended addition to Sec. 1.II. PC recommended deleting "intended to be" from the opening paragraph of Sec. 5.7. PC recommended adding staff's proposed language to the opening paragraph of Sec. 5.10 with the addition of "to be served with public *or private* water...".
- 12) Section 5.7, Rural (R) District; C. Height Restrictions: PC recommended changing the height from the proposed 75' to 45' with the stipulation that any variation of this will require BZA approval.
- 13) Appendixes A & B: PC recommended increasing the maximum allowable height in the Rural (R) District from 35' to 45' (originally proposed an increase to 75').
- 14) Section 5.7D.2 – Clustering; Subsection b.i (b): PC recommended the addition of Staff's proposed language: "A note to this effect shall be placed on all cluster plats".
- 15) Section 5.7D.2 – Clustering; Subsection b.i (b): PC recommended adding a sliding scale to incentivize large areas to be retained as green space. Mr. Steve Stolipher presented a draft sliding scale outlining the Residue percentage and the Density allowed as follows: 50% = 1 per 5 acres; 55% = 1 per 4.5 acres; 60% = 1 per 4 acres; 65% = 1 per 3.5 acres; 70% = 1 per 3 acres; 75% = 1 per 2.5 acres. PC recommended adoption of the sliding scale as presented.
- 16) Section 5.7D.2 – Clustering; Subsection b.i (b): PC recommended no changes to the term "Green Space".
- 17) Section 5.7D.3 – Development Rights/Density: PC recommended the addition of Staff's proposed language, "...Such application may process as a Minor Subdivision *in accordance with the Subdivision Regulations, and shall be exempt from density limitations provided that all subdivision requirements are satisfied.*"
- 18) Section 5.7D.4 –Parent to Child lots (Family Transfers): PC recommended Staff propose a future amendment to exclude the review of a family transfer deed by Planning/Zoning.
- 19) Article 8, Supplemental Use Regulations: PC recommended addition of a new section for "Adaptive Reuse of existing structures".

- 20) Appendix B – Non-Residential Site Development Standards Table: Setback revisions. PC recommended reducing side and rear yard setbacks for commercial sites greater than 1.5 acres from 50’ to 25’.
- 21) Appendix B – Non-Residential Site Development Standards Table: PC recommended that Staff propose a separate amendment to reduce screening and buffer requirements for neighboring commercial projects in September.
- 22) Appendix C - Principal Permitted Uses (PPU) table: Consider school types, Campgrounds, Art Gallery/Artist Studio and Antique shops as Permitted or Conditional Use in the Rural District. PC agreed that no change is required for schools as they are already a PPU in the Rural district. PC agreed that Campgrounds are being addressed under a separate amendment. PC recommended that Art Gallery/Artist Studio and Antique Shop be changed from “Not Permitted” to “Conditional Use” in the Rural district.
- 23) Appendix C - Principal Permitted Uses (PPU) table: PC recommended that “Small Medical” and “Professional Offices” be changed from “Not Permitted” to “Conditional Use” in Appendix C.
- 24) Appendix C - Principal Permitted Uses (PPU) table: PC recommended no changes. Keep “Gas Station, Limited” and “Gas Station” as a Conditional Use (CU).
- 25) Appendix C - Principal Permitted Uses (PPU) table: PC requested that staff draft an amendment to allow a detached “Mother-In-Law” suite in the Rural District. Staff should draft language that allows both a mother-in-law suite as well as an “Agricultural Accessory Dwelling Unit” with administrative approval. Staff agreed to draft language to present to the Planning Commission at their July meeting.
- 26) Appendix C - Principal Permitted Uses (PPU) table: PC recommended reinstating “Commercial Uses” to the PPU Chart as recommended by Staff. PC recommended that “Mixed Use Buildings” be changed from Conditional Use to Permitted, and that “Bed and Breakfast” be changed from Not Permitted to Permitted in the Residential-Light Industrial-Commercial district.
- 27) Appendix C - Principal Permitted Uses (PPU) table: PC recommended changing “Airports” and “Private Airfield” Not Permitted to Conditional Use in the Residential-Light Industrial-Commercial (RLIC) District; and changing “Airport” from Conditional Use to Permitted in both the Rural and Industrial Commercial Districts.
- 28) Appendix C - Principal Permitted Uses (PPU) table: PC recommended that Staff further investigate the legality of the public comment that Mobile homes are legally permitted anywhere a stick built house is permitted.

Mr. Steve Stolipher made a motion that staff make the recommended changes and forward to the County Commission for the purpose of scheduling a Public Hearing.

Mr. Donnie Fisher seconded the motion. A vote was taken which carried unanimously.

Ms. Jennifer Brockman asked for latitude to bring any questionable items back to the Planning Commission. She asked to be able to email the Planning Commission with any possible re-drafts on any of the amendments before sending to County Commission.

Mr. Mike Chapman agreed with Staff's request.

7. Reports from Legal Counsel and legal advice to the Planning Commission.

a) Active Litigation:

- Far Away Farms: Report on legal action in Jefferson County Circuit Court, Case # 11-C-325 Possible Executive Session. None
- Shiloh Citizens Association: Report on legal action in Supreme Court, Docket #15-1031 Possible Executive Session. None

8. Director's Report.

- The County Commission will be discussing the Campground Ordinance on Thursday, June 16, 2016. Staff was directed to go back to the Citizen Committee version. Some modifications were made.
- Pending Zoning Ordinance and Subdivision Regulation Amendments
- Upcoming PC meeting

9. President's Report. None.

10. Actionable Correspondence. None

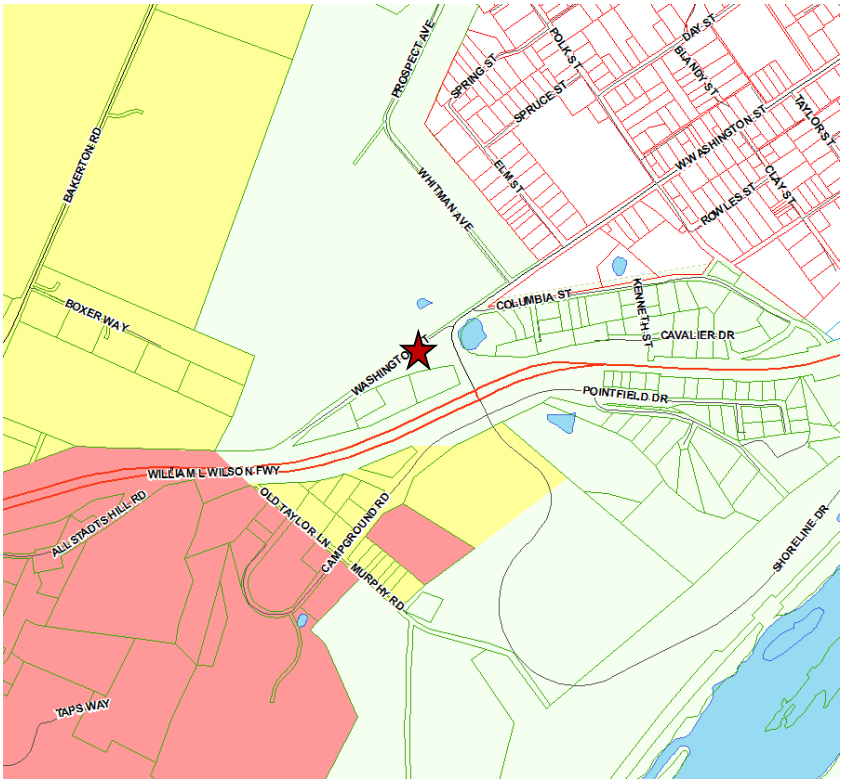
11. Non-Actionable Correspondence. None

Mr. Mike Chapman motioned to adjourn the meeting at 9:25 PM.

Staff Report  
 Jefferson County Planning Commission Meeting  
 July 12, 2016

**Jefferson County Convention & Visitor's Bureau (PCW#16-05)**

**Public Hearing:** Request by applicant for a waiver from Appendix B, Section 2.5 (C) that requires all parking lots and parking bays (except for parallel parking along a townhouse /condominium complex street) shall be physically separated from the street and confined by curbing, unless other suitable design is approved by the County Engineer.

APPLICANT:	Jefferson County Convention & Visitor's Bureau
OWNER:	Jefferson County Commission
DEVELOPER:	Jefferson County Convention & Visitor's Bureau
SURVEYOR/ENGINEER:	Williamson Shriver Architects, Inc. Attn: Gregory Williamson
PROPERTY LOCATION:	37 Washington Court, Harpers Ferry, WV 25425
LEGAL DESCRIPTION & ZONING MAP DESIGNATION:	<p>Tax District: Harpers Ferry (04); Tax Map: 7; Parcel: None assigned          Size: 0.64 Acres</p> 
ZONING DISTRICT:	Rural
SURROUNDING PROPERTIES:	North: Rural South: Residential Growth East: Rural West: Rural
APPROVED ACTIVITY	Visitors Center
APPROVALS:	WVDOH approved waiver request of state requirements that prevents backing maneuvers within the State highway right of way. (05/31/2016). WVDOH also concurs that right angle parking will provide the most versatility for parking lot access.

Staff Report  
Jefferson County Planning Commission Meeting  
July 12, 2016

Background

The existing Jefferson County Convention & Visitor's Bureau (CVB) is located on 0.64 acres along Washington Court in Harpers Ferry. The CVB occupies an existing commercial structure which predates local land use regulations. This structure was located in a WVDOH right of way. On October 2, 2015 the WVDOH deeded 0.64 acres, formed by Washington Court (Old US 340), Connector Road F, and US 340, to the Jefferson County Commission. The .64 acre parcel is a small triangular site residual property that was created when the multi-lane Route 340 was constructed.

The Request

The applicant is planning on expanding the visitor center facility by creating a second similar structure on the 0.64 acre. As a result of the size and shape of the property, a number of dimensional variances may be required to be processed through the Board of Zoning Appeals. Additionally, the applicant is requesting a waiver from the Jefferson County Subdivision regulations, Appendix B, Section 2.5 (C) which states "*All parking lots and parking bays (except for parallel parking along a townhouse/condominium complex street) shall be physically separated from the street and confined by curbing, unless other suitable design is approved by the County Engineer.*" The new Site Plan for the proposed expansion will consist of the renovation of the existing paved parking area to create a total of 28 spaces, including 2 ADA compliant spaces. These spaces are to be configured as angled or 90 degree parking along Washington Court which will require cars parked there to back directly into the WVDOH right of way. This expanded facility is anticipated to draw buses also. Parking for the buses have been provided along Connector "F", which is also owned by the WVDOH

Waiver Requirements:

In order to grant a variance the following four criteria must be met. The application provides the applicant's response to these criteria. The comments below the criteria are the staff's comments related to the criteria:

***The design of the project will provide public benefit in the form of reduction in County maintenance cost, greater open space, parkland consistent with the County parks plan, or benefits of a similar nature.***

The proposed design takes full use of a limited size and oddly shaped lot. Allowing visitor parking along the edge of the right-of-way, instead of requiring a physically separated parking lot, allows the site to be developed similarly to an urban site with on-street angled parking. The proposed design creates good use of the site.

***The waiver, if granted, will not adversely affect the public health, safety or welfare or the rights of adjacent property owners or residents.***

Generally, the requirement to provide separated parking is in the best interest of the public health, safety and welfare of the adjoining properties; however, in this case, Washington Court has limited other property owners, none of which will be negatively impacted by the proposed roadway and parking design. The property adjoins Bolivar Heights, a part of the Harpers Ferry National Historical Park. The lots along Washington Court and between this lot and USE 340 have been acquired by the Civil War Trust and will also be preserved in the future.

Staff Report  
Jefferson County Planning Commission Meeting  
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***The waiver, if granted, will be in keeping with the intent and purpose of these Regulations.***

The requested waiver, in the specific circumstances related to the location and shape of this site, are not contrary to the intent and purpose of these Regulations. Parking can be adequately and safely provided as proposed while allowing the free flow of traffic in the vicinity. The roads and rights-of-way abutting this property are all WV DOH properties and WV DOH has approved this design.

***The waiver, if granted, will result in a project of better quality and/or character.***

The proposed layout and design of the project allows for ease of access to the Visitor's Center and the free flow of traffic in the vicinity. It also allows the development of a larger Visitor's Center to meet the County's growing tourism industry.

Staff Recommendation

Staff recommends approval of this waiver due to the unique circumstances related to this lot, provided all WV DOH conditions are complied with.

# Engineering Report

**Jefferson County Convention and Visitor's Bureau  
Waiver to allow parking lot or bays to directly access the street.  
07/12/2016**

**Request:**

Jefferson County Convention and Visitor's Bureau, in conjunction with the Jefferson County Commission the property owner of parcel unknown, on tax map 7, in Harpers Ferry District, is requesting a waiver from the requirements of the JEFFERSON COUNTY SUBDIVISION AND LAND DEVELOPMENT ORDINANCE (2008), Section Sec. 2.5 Off-Street Parking Standards, as follows:

C. All parking lots and parking bays (except for parallel parking along a townhouse/condominium complex street) shall be physically separated from the street and confined by curbing, unless other suitable design is approved by the County Engineer.

The applicant is requesting that parking lots or bays to have direct access to the street and not be required to be physically separated.

**Findings:**

The WVDOH sold the property to the Jefferson County Commission on October 2, 2015.

The West Virginia Division of Highways granted a waiver to allow backing maneuvers within the state highway system as stated in attached letter dated May 31, 2016.

The Visitor's Center is currently utilizing a parking area that is adjacent to the state highway system and want to expand the parking lot. They want to continue parking in this manner.

**Conclusion:**

Since the Visitor's center is currently using a parking lot adjacent to the state road system and the WVDOH has waived the backward maneuver in the state ROW, Engineering recommends approval of this waiver.



JEFFERSON COUNTY, WEST VIRGINIA

Departments of Planning and Zoning
116 East Washington Street, P.O. Box 338
Charles Town, WV 25414

Staff Initials:
Sketch Received:
List of Adjoiners:
Fees Paid:

www.jeffersoncountywv.org/government/departments/planning-and-zoning-department.html

Email: planningdepartment@jeffersoncountywv.org
zoning@jeffersoncountywv.org

Phone: (304) 728-3228
Fax: (304) 728-8126

Waiver Request

Note: Waivers from the 2008 Amended Subdivision Regulations must comply with Division 24.300 of the Subdivision Regulations.

Sketch on a separate sheet of paper the shape and location of lot. Show the location of the intended construction or land use indicating building setbacks, size, and height. Identify existing buildings, structures, or land uses on the property. Sign and date the sketch. Provide a vicinity map of the area and a list of the adjoining property owner's mailing addresses.

Property Owner Information

Name: Jefferson County Commission
Mailing Address: 124 East Washington Street, Charles Town, WV 25414
Phone Number: (304) 728-3284 Email: sgrove@jeffersoncountywv.org

Applicant Contact Information

Name: Jefferson County Convention & Visitor's Bureau attn. Annette Gavin, Executive Director
Mailing Address: 37 Washington Court, Harpers Ferry, WV 25415
Phone Number: (304) 535-2627 Email: annette.gavin@jccvb.com

Applicant Registered Engineer(s), Surveyor(s), or Consultant(s)

Name: Williamson Shriver Architects, Inc. attn. Gregory A. Williamson AIA
Mailing Address: 717 Bigley Ave., Charleston, WV 25302
Phone Number: (304) 345 1060 Email: gwilliamson@wsgarch.com

Physical Property Details

Physical Address: 37 Washington Court
City: Harpers Ferry State: WV Zip Code: 25425
Tax District: 1 Bolivar Corporation Map No: 7 Parcel No: n/a
Parcel Size: 0.64 acres Deed Book: 1165 Page No: 391

Zoning District (please check one)

Grid of zoning districts with checkboxes: Residential Growth (RG), Industrial Commercial (IC), Rural (R), Residential-Light Industrial-Commercial (R-LI-C), Village (V), Neighborhood Commercial (NC), General Commercial (GC), Highway Commercial (HC), Light Industrial (LI), Major Industrial (MI), Planned Neighborhood Development (PND), Office/Commercial Mixed-Use (OC). Rural (R) is checked.

Place Date Stamp Here

**What Section of the Subdivision Regulations are you Requesting to Waive?**

Jefferson County Subdivision Regulations, Appendix B, Section 2.5C

**Briefly Describe the Nature of Your Waiver Request:**

See attached Exhibit 1, paragraph A

**Explain how the design of the project will provide public benefit in the form of reduction in County maintenance costs, greater open space, parkland consistent with the County Parks Plan or benefits of a similar nature.**

See attached Exhibit 1, paragraph B

**Explain how the waiver, if granted, will not adversely affect the public health, safety, or welfare or the rights of adjacent property owners or residents.**

See attached Exhibit 1, paragraph C

**Explain how the waiver, if granted, will be in keeping with the intent and purpose of this Ordinance.**

See attached Exhibit 1, paragraph D

**Explain how the waiver, if granted, will result in a project of better quality and/or character.**

See attached Exhibit 1, paragraph E

**Original signature is required. The information given is correct to the best of my knowledge.**

6/20/16  
Signature of Property Owner      Date

6/27/2016  
Signature of Property Owner      Date

**To Be Completed By Office**

\_\_\_\_\_ Date of Public Meeting/Public Hearing

\_\_\_\_\_ Official/Administrative Body

\_\_\_\_\_ Date Property to be Posted By

\_\_\_\_\_ Date Adjoiner Letters to be Mailed

**Approved/Denied by a vote of \_\_\_\_\_ for and \_\_\_\_\_ against this \_\_\_\_\_ day of \_\_\_\_\_,**

**Approved**       **Denied**



**WEST VIRGINIA DEPARTMENT OF TRANSPORTATION**

**Division of Highways**

**Office of the District Engineer/Manager  
District Five**

**Earl Ray Tomblin  
Governor**

**P. O. Box 99 · Burlington, West Virginia 26710-0099 · (304) 289-3521**

**Paul A. Mattox, Jr., P. E.  
Secretary of Transportation/  
Commissioner of Highways**

**May 31, 2016**

**Mr. John Reisenweber  
Executive Director  
Jefferson County Development Authority  
Post Office Box 237  
Charles Town, West Virginia 25414**

**Dear Mr. Reisenweber:**

**Thank you for your application for an approach permit to expand the existing parking area for the Jefferson County CVB in Harpers Ferry.**

**Upon thorough review of the information that has been provided, I am approving a waiver of the current requirement that prevents backing maneuvers within the state highway right of way. I also concur that right angle parking, as proposed in the original plans, will provide the most versatility for visitors accessing the parking lot from either direction.**

**Again, thank you for your application. Should you have any other questions regarding this particular permit, please contact Mr. Todd Wilson, Permits Technician, at (304) 289-2205.**

**Sincerely,**

A handwritten signature in blue ink that reads "J. Lee Thorne".

**J. Lee Thorne, P.E.  
District Engineer/ Manager**

**Ec: Todd Wilson  
Nathan Ware  
Kenneth Clohan  
Barry Knotts**

## Waiver Request - Exhibit 1

### A. *Briefly describe the nature of your waiver request.*

The existing Harpers Ferry Visitor's Center sits on a 0.64 acre site along Washington Court in the community of Bolivar, just west of Harpers Ferry. The small triangular site is residual property that was created when the multi-lane Route 340 was constructed. The site is bounded by Washington Court and the Harpers Ferry National Historical Park Battlefield to the north, an asphalt paved 'Connector F' and vacant property owned by the Harpers Ferry National Historical Park to the south, and Washington Street (Alt 340) and a residential property to the east. The visitor center property, was until recently owned by the WV Department of Highways, and thus not on the tax rolls, therefore no deed book parcel number is available. The property has recently been conveyed to the Jefferson County Commission.

Washington Court is the former Route 340 road bed prior to relocation. After Washington Court passes the visitor center, it continues westward for approximately 1000' before dead ending. There are no private property owners along Washington Court. The commercial auto service facility immediately to the west of the visitors center was purchased recently by the Civil War Trust and either has closed or will be soon closing.

The existing visitor center building is a wood, A-framed structure of 1,628 SF. Currently 12 marked parking spaces are provided for this facility, all situated as angled parking directly accessed from Washington Court. The new addition consists of a visually similar A-frame structure of 1,290 SF located across a proposed paved plaza area which will include a small open-air pavilion. The new site plan includes renovation of the existing paved parking area such that a total of 28 spaces, including 2 ADA compliant spaces, will be provided for cars along Washington Court, continuing to be configured as angled parking with access directly from the WVDOH right of way. Also, this facility is anticipated to draw busses, therefore, parking for three busses has been provided along Connector "F", which is also owned by the WVDOH. An existing site survey is provided as Exhibit 2. A site development plan for this proposed development is provided with this application as Exhibit 3.

Per the Jefferson County Zoning Ordinance, section 11.1 – A, this development requires 9 automobile parking spaces all to be located 'off-street', within the property boundaries. Per the Jefferson County Subdivision Regulations, Appendix B, Section 2.5C, "All parking lots and parking bays (except for parallel parking along a townhouse/condominium complex street) shall be physically separated from the street and confined by curbing, unless other suitable design is approved by the County Engineer." The Convention and Visitor's Bureau is seeking a waiver from these off-street and separation requirements. This waiver is based upon a unique existing condition that the triangle of WVDOH roadways formed by Washington Court and Connector F serve no other property access function other than to access the Visitor's Center, and effectively serve as the parking lot drive aisle for automotive and bus parking access for this project.

Lastly, the West Virginia Department of Highways has provided a waiver to the requirement prohibiting parked cars backing into its right-of-way as evidenced in the attached letter dated May 31, 2016 (attached as Exhibit 4).

**B. *Explain how the design of the project will provide public benefit in the form of reduction in County maintenance costs, greater open space, parkland consistent with the County Parks Plan or benefits of a similar nature.***

The existing Washington Court and Connector F serve no other property access function except for access to this project site. Therefore, these roads effectively serve as the parking lot drive aisles. The Harpers Ferry Visitor's Center is a publicly owned and operated facility with a limited budget. Eliminating the construction of extraneous drive aisles will reduce initial construction costs as well as life-cycle maintenance costs. As Washington Court remains part of the WVDOT roadway system, repairs and snow removal costs will presumably continue to be by WVDOT rather than by the Jefferson CVB. The elimination of these ongoing costs serve as a significant public benefit.

As this parcel is surrounded largely by Harpers Ferry National Historical Park and Battlefield land, keeping the interior of the small triangular parcel as green as possible adds to the park-like nature of its surroundings. Granting this waiver will eliminate unnecessary expense to the public of constructing completely new parking in areas presently used as community lawn / green space.

**C. *Explain how the waiver, if granted, will not adversely affect the public health, safety, or welfare or the rights of adjacent property owners or residents***

The intent of on-site parking requirements in zoning ordinances typically is generally to increase public safety by limiting the need for cars to back out into traffic on busy streets or thoroughfares. In this instance, given the unique site location and configuration of roadways, with no other private property owner using Washington Court or Connector F, traffic passing this proposed parking area is minimal. In effect, Washington Court and Connector F become the drive aisles of the parking lot and thus the potential for accidents or injuries is no more than in any conventional parking lot.

This proposed parking configuration does not appear to impact rights of the adjacent property owners or residents.

**D. *Explain how the waiver, if granted, will be in keeping with the intent and purpose of this Ordinance.***

A primary purpose of the Jefferson County Subdivision and Land Development Regulations, as stated in Section 20.101 – Purpose, is to “promote efficient and attractive development that reduces off-site impacts”. Not constructing any more asphalt paved surface than is absolutely necessary is an efficient approach to the reduction of spending of public funds, as well as keeping as large a lawn area as possible at this facility, which adds to the attractiveness of this project.

It is unlikely that this proposed parking configuration, in this unique situation where no adjoining privately owned properties are accessed by Washington Court or Connector F, could have any off-site impacts. The private residence to the east will continue to have generally the same view of the visitor center lawn that they currently enjoy. However, if off-street parking is required per the zoning ordinance, this lawn will have to be largely

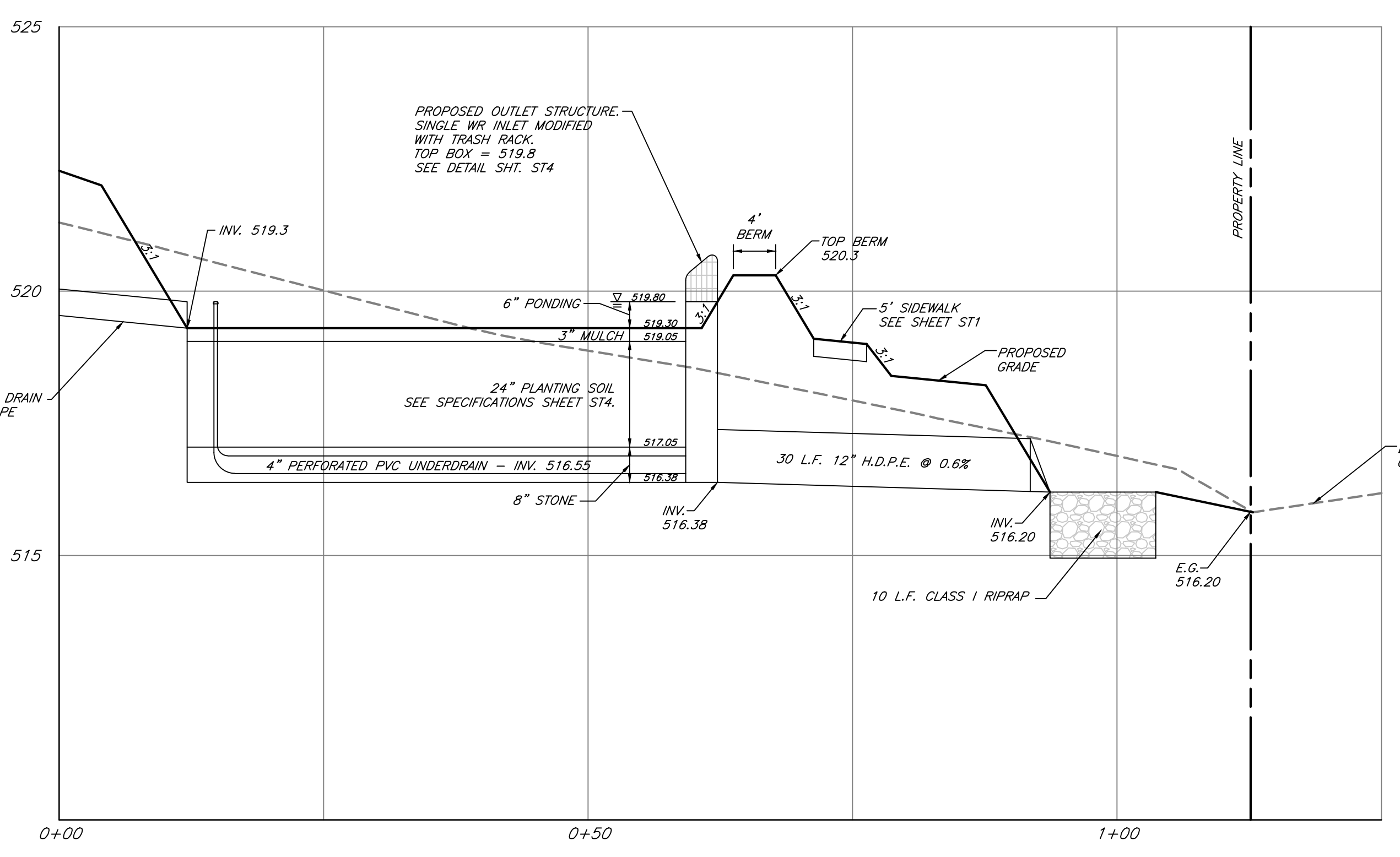
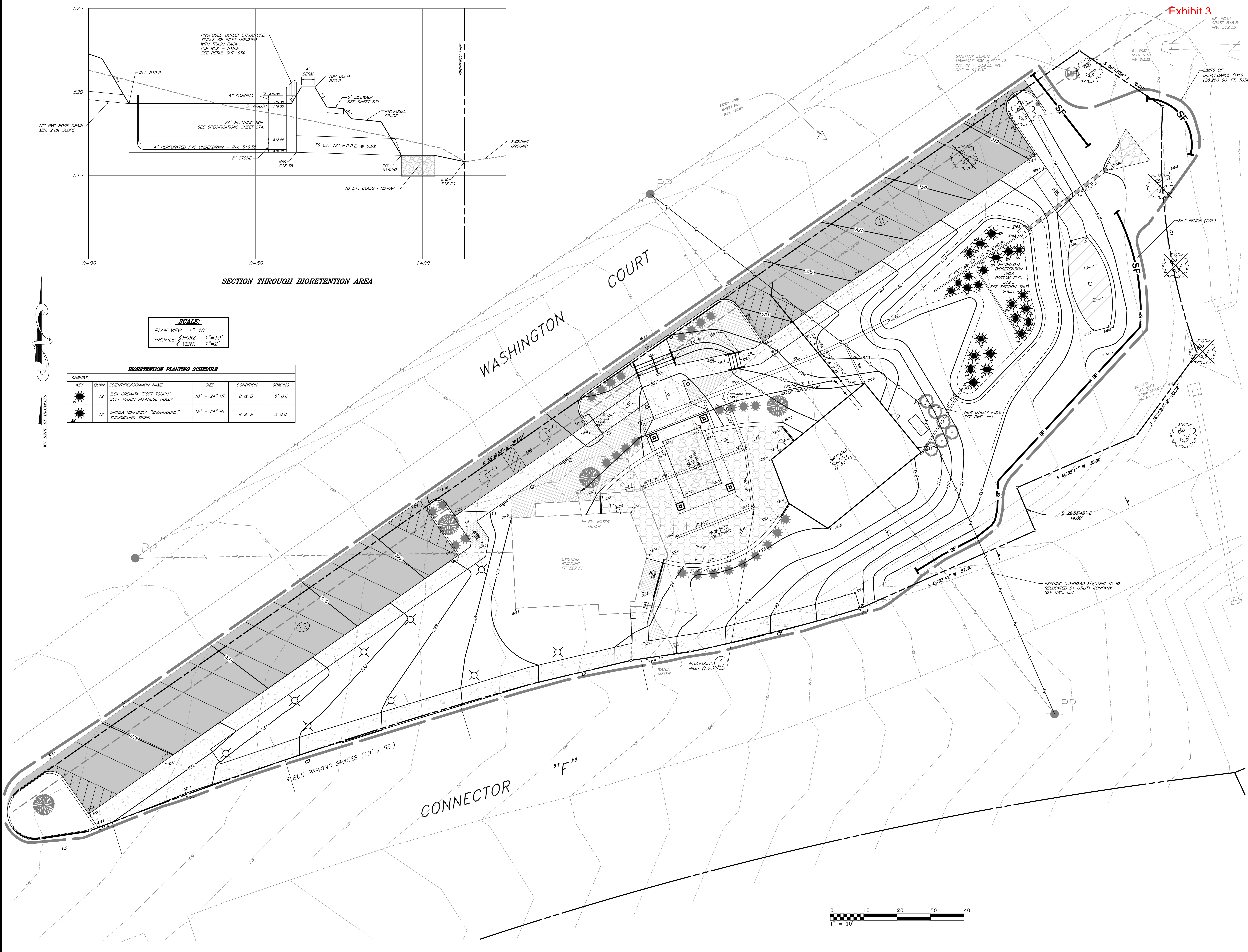
converted into pavement as it is the only location on site where off-street parking could be located.

***E. Explain how the waiver, if granted, will result in a project of better quality and/or character.***

Granting this waiver will result in parking that is more spread out across the site, yet closer to the entry pavilion than could be achieved on this small site with the proposed building configuration. Avoiding larger expanses of asphalt in this unique historical park setting will add to the quality and character of not only this project site but also the public lands which surround the facility on all but one side.



ISSUED	DATE	REV #

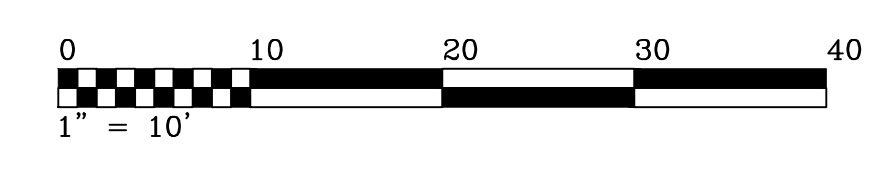


SECTION THROUGH BIORETENTION AREA

**SCALE:**  
PLAN VIEW: 1"=10'  
PROFILE: HORZ. 1"=10'  
VERT. 1"=2'

**BIORETENTION PLANTING SCHEDULE**

KEY	QUAN.	SCIENTIFIC/Common NAME	SIZE	CONDITION	SPACING
☀	12	ILEX CREMATA "SOFT TOUCH" SOFT TOUCH JAPANESE HOLLY	18" - 24" HT.	B & B	5' O.C.
☀	12	SPIREA JAPONICA "SNOWMOUND" SNOWMOUND SPIREA	18" - 24" HT.	B & B	3 O.C.



THIS DEED, Made this 2<sup>nd</sup> day of October, 2015, by and between the **WEST VIRGINIA DEPARTMENT OF TRANSPORTATION, DIVISION OF HIGHWAYS**, hereinafter called Grantor, and the **JEFFERSON COUNTY COMMISSION**, hereinafter called Grantee.

**THAT, WHEREAS**, in accordance with the West Virginia Code § 1-5-3, the Grantor has determined that the parcel of land hereinafter described and conveyed is not necessary or desirable for present or foreseeable State road purposes, has no significant value to the State as a hiking or biking trail, does not serve as a link between two or more State owned properties, and did authorize the sale of same as excess property; and the Grantee has determined that it, as a public body, has need for such property, and both parties have determined the public will benefit from acquisition of this property by the Grantee.

**NOW THEREFORE, THIS DEED WITNESSETH:** That for and in consideration of the premises and of the sum of **ONE DOLLAR (\$1.00)**, cash in hand paid, the receipt and sufficiency of which are hereby acknowledged, the Grantor does hereby **GRANT** and **CONVEY** unto the Grantee, without warranty, all of its right, title and interest in and to the surface only of that certain tract of land, shown on the plat attached hereto and make a part hereof, situate in Harpers Ferry District, Jefferson County, West Virginia, and more particularly described as follows:

The certain property or interest therein designated as **EXCESS LAND** and being a part of Project E. R. H. 1-(1), F278(1); 64, Jefferson County, West Virginia, and more particularly bounded and described as follows, to wit:

**EXCESS LAND**

BEGINNING at a point in the northern edge of a proposed concrete curb, said point being in the southern revised noncontrolled access right of way line of Jefferson County Route 340/16 and 16.6 feet right of and at right angle to said route centerline at Station 53+88, as shown on plat of Projects E. R. H. 1-(1), F 278(1); 64, Jefferson County, West Virginia;

thence, northeasterly, with said revised noncontrolled access right of way line N63°30'E, 387 feet, more or less, to a point 17 feet right of and at right angle to centerline at Station 57+75;

thence, southeasterly, continuing with said revised right of way line, 30 feet, more or less, to a point in the northern revised noncontrolled access right of way line of Alt. US Route 340 (formerly Conn. E), said point being 32 feet radially right of Alt. US Route 340 (formerly Conn. E) relocated centerline at Station 32+35;

ATTN: RIGHT OF WAY  
WEST VIRGINIA DEPARTMENT OF HIGHWAYS  
PO BOX 99  
BURLINGTON, WV 26710-0099

thence, southerly, with said revised right of way line of Alt. US Route 340 (formerly Conn. E), with a curve to the left having a radius of 195.57 feet, holding 32 feet concentric to centerline 71.90 feet, to a point in the northern revised noncontrolled access right of way line of Jefferson County Route 340/15 (formerly Conn. F), said point being 32 feet radially right of centerline at Station 32+95;

thence, southwesterly, with said County Route 340/15 (formerly Conn. F) revised right of way line 36 feet, more or less, to a point 32 feet left of and at right angle to Jefferson County Route 340/15 (formerly Conn. F) relocated centerline at Station 12+37;

thence, southwesterly, continuing with said revised right of way line 39 feet, more or less, to a point 33 feet radially left of centerline at Station 11+96;

thence, southerly, with said revised right of way line 14 feet, more or less, to a point 19 feet, radially left of centerline at Station 11+96;

thence, westerly, with said revised right of way line 59 feet, more or less, to a point 15 feet radially left of centerline at Station 11+37;

thence, westerly, with said revised right of way line 51 feet, more or less, to a point 15 feet left of and at right angle to centerline at PRC Station 10+83.02;

thence southwesterly, with said revised right of way line, with a curve to the left having a radius of 1,188.24 feet, holding 15 feet concentric to centerline 185.12 feet, to a point in the southern edge of a proposed concrete curb, said point being 15 feet radially left of centerline at Station 9+00;

thence, westerly, with said revised right of way line and proposed concrete curb 17 feet, more or less, to a point 17 feet radially right of centerline at Station 8+84;

thence, northerly, continuing with said revised right of way line and said edge of proposed concrete curb, with a curve to the right having a radius of 8 feet, a distance of 22 feet, more or less, to the place of beginning and containing 28,025 square feet (0.64 acre), more or less.

The tract of land hereinabove described is a portion of that same real estate conveyed unto The State of West Virginia by The State Road Commission of West Virginia, a Corporation, now known as the West Virginia Department of Transportation, Division of Highways by Final Order dated May 3, 1946 from Kenneth K. Cavalier and Charlotte E. Cavalier, his wife, The Prudential Insurance Company of America, a corporation; Jeff Hanna, substitute Trustee; and James F. Cassell, recorded December 5, 1946 in the Office of the Clerk of the County Commission of Jefferson County, West Virginia, in Deed Book 166, at Page 454 and a portion of the same real estate acquired by Acts of the Legislature, 1933, C.40, Extraordinary Session, as a Class A Road.

This conveyance is made subject to the condition that the property conveyed herein be utilized for public purposes. If, at any time, this property ceases to be used for public purposes, then all property conveyed herein shall revert to the Grantor and Grantee

agrees to immediately, upon its own initiative, execute a deed to the Grantor.

This conveyance is made subject to existing utility rights of way, easements and lines whether or not visible upon the ground.

Grantor expressly excepts from this conveyance and reserves unto Grantor, and to Grantor's assigns, all of Grantor's right, title and interest in and to all of the coal, oil, gas and other minerals in, on and under the property to be conveyed, including any and all royalties, bonus amounts, delay rentals and other payments due and payable under any existing or future coal, oil, gas or mineral lease.

This transfer is exempt from West Virginia excise taxes on property transfers under Chapter II, Article 22, Sections 1 and 2 of the Official Code of West Virginia of 1931, as amended.

*(The rest of this page left blank intentionally.)*

IN WITNESS WHEREOF, the West Virginia Department of Transportation,  
Division of Highways, has caused its name to be signed by its duly authorized officer.

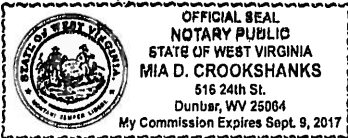
WEST VIRGINIA DEPARTMENT OF  
TRANSPORTATION, DIVISION OF HIGHWAYS

Paul A. Mattox, Jr.  
Secretary/Commissioner

STATE OF WEST VIRGINIA  
COUNTY OF KANAWHA, to-wit:

The foregoing instrument acknowledged before me this 2<sup>nd</sup> day of  
October, 2015, by Paul A. Mattox, Jr., P. E., Secretary/ Commissioner.

My commission expires 9-9-2017



Mia D. Crookshanks  
Notary Public

This instrument was prepared by:  
Eric Hudnall, Director  
Right of Way Division  
West Virginia Division of Highways  
Building 5, Room A-631  
1900 Kanawha Boulevard, East  
Charleston, West Virginia 25305-0430.

APPROVED AS TO FORM THIS  
28<sup>th</sup> DAY OF September 2015  
[Signature]  
ATTORNEY LEGAL DIVISION  
WEST VIRGINIA DEPARTMENT  
OF HIGHWAYS

Approved as to form this 13<sup>th</sup> day of  
November, 2015  
Patrick Morrissey, Attorney General

By: J. Robert Hsieh  
Chief Counsel

RESOLUTION

BE IT RESOLVED BY THE JEFFERSON COUNTY COMMISSION, AS FOLLOWS:

1. That the Jefferson County Commission has determined that it, as a public body, has need for certain real property owned by the West Virginia Department of Transportation, Division of Highways, located in Jefferson County, West Virginia, and has made a formal request for acquisition of the property as reflected in the attached deed.

2. That, in accordance with the West Virginia Code § 1-5-3, the West Virginia Department of Transportation, Division of Highways, has determined that the parcel of land to be conveyed is not necessary or desirable for present or foreseeable State road purposes, has no significant value to the State as a hiking or biking trail, does not serve as a link between two or more State owned properties, and did authorize the sale of same as excess property; and both parties have determined the public will benefit from acquisition of this property by the Jefferson County Commission.

3. That the Jefferson County Commission accepts conveyance of the property by Deed from the West Virginia Department of Transportation, Division of Highways, in the form hereinabove set forth.

4. That the President of the Jefferson County Commission, be, and is hereby authorized and directed to take any further action necessary to complete a transfer of the subject property.

5. On a motion by Commissioner Noland, and a second by Commissioner Manvel the Jefferson County Commission, approved and authorized the adoption of the above resolution.

STATE OF WEST VIRGINIA

COUNTY OF Jefferson, to wit:

I, Jane M. Tabb, the President of the said Jefferson County Commission does hereby certify that the foregoing are true copies from the records order made and entered by the Jefferson County Commission, of said County on the 30th day of July, 2015.

Jane M. Tabb (SEAL)

**RESOLUTION**

*Ordered: That pursuant to Chapter 1, Article 5, Section 3, Code of West Virginia, 1931, as amended, the West Virginia Board of Public Works does hereby approve the sale and/or transfer of a certain lot or parcel of real estate, more specifically described in a deed, by and between the West Virginia Department of Transportation, Division of Highways and the Jefferson County Commission in the amount of one dollar (\$1.00).*

\* \* \* \* \*

*State of West Virginia,  
Office of the Secretary of State,  
Charleston*

*I, Natalie E. Tennant, Secretary of State and Ex- Officio Secretary of The West Virginia Board of Public Works, do hereby certify that the foregoing is a true and correct copy of an Order made and entered by a majority vote of said Board of Public Works in open session on the 17th day of November, 2015.*

*Given under my hand this seventeenth day of November, Two Thousand Fifteen.*



*Natalie E. Tennant*

*Natalie E. Tennant  
Secretary of State and  
Ex officio Secretary of The  
West Virginia Board of  
Public Works*



Staff Report  
 Jefferson County Planning Commission Meeting  
 July 12, 2016

**Nina Lynch Property (PCW#16-06)**

**Public Hearing:** Request by applicant Nina Lynch (PCW#16-05) for a waiver from Section 20.201(A)2 of the Subdivision Regulations which allows lots in the Rural District with a minimum road frontage of 200' to front on an existing road right of way having a width of 50'. The proposed lot has 40' of access via a pipestem to Leetown Road. The applicant is also requesting a waiver from Appendix B, Section 2.3(A) 1 which requires individual lots to be served by internal subdivision road.

APPLICANT:	Nina Lynch	
OWNER:	Same as above	
DEVELOPER:	Same as above	
SURVEYOR/ENGINEER:	Ed Johnson and Assoc.	
PROPERTY LOCATION:	Lot 1 Merryfield Farm, Meandering Lane, Middleway, WV 25430	
LEGAL DESCRIPTION & ZONING MAP DESIGNATION:	Tax District: Middleway (07); Tax Map: 8; Parcel: 3.46 Size: 18.19Acres	
ZONING DISTRICT:	Rural	
SURROUNDING PROPERTIES:	North: Rural South: Rural	East: Rural West: Rural

Staff Report  
 Jefferson County Planning Commission Meeting  
 July 12, 2016

APPROVED ACTIVITY	Single Family Residence
APPROVALS:	03/24/03: Woodbury Farm CIS approved. 09/03/03: “Woodbury Farm” name changed to Merryfield Farm approved. 12/09/03: Planning Commission approved a variance to allow Lot 7 (14.04 acre Residue Parcel) to access off of Woodbury Drive. 04/30/04: Preliminary Plat approved for Lots 1-6 and Residue 07/16/04: Final Plat for approved. Recorded in PB 21 PG 59 -59C

Background

The subject property was previously known as the “Woodbury Subdivision”. The name change was approved by the Planning Commission to “Merryfield Farm” in September of 2003. Lot 1 is designated as the Residue parcel. The subject parcel is located approximately 0.4 miles from the intersection of Hite Road (Route 1 /4) and approximately 0.26 miles from the intersection of Hite Road and Leetown Road (Route 1). A 1,000 foot pipestem access exists from the subject property to Leetown Rd. This access was primarily to be used by adjacent homeowners and was noted as “to be abandoned” on the Merryfield Preliminary Plat; however this was not included on the approved Final Plat.

As only two (2) of the lots have been sold, no HOA has been created which results in the private access (Meandering Lane) staying in the possession of the developer.

The Request

Generally, all lots in both Minor and Major Subdivision are required to access an internal subdivision road or right-of-way of 50’ in width. There is a provision, however, for Minor Subdivisions in the Rural District, which states that lots having a minimum road frontage of 200 feet may access directly on an existing road right-of-way having a width of 50 feet. The applicant is proposing to divide the 18.19 acre lot into two lots, one of which will access Meandering Lane per the approved plat. The request is to allow the second lot to utilize the lot’s existing 40’ road frontage on Leetown Road via a pipestem. The applicant is requesting a waiver from Section 20.201(A)2 of the Subdivision Regulations which includes this provision.

The applicant is also requesting a waiver from Appendix B, Section 2.3(A) 1 which is the Section of the Subdivision Regulations which requires individual lots to be served by internal subdivision roads.

In order to grant a variance the following four criteria must be met. The comments below the criteria are the staff’s comments related to the criteria:

***The design of the project will provide public benefit in the form of reduction in County maintenance cost, greater open space, parkland consistent with the County parks plan, or benefits of a similar nature.***

This criteria does not relate to the requested waiver.

***The waiver, if granted, will not adversely affect the public health, safety or welfare or the rights of adjacent property owners or residents.***

Allowing this property to utilize a pre-existing access to Leetown Road, which was proposed to be abandoned during the Preliminary Plat phase of the subdivision, may impact the immediate neighbors to either side of the pipestem; however the proposed use is for access to one proposed lot only so the impact may be considered minimal.

Staff Report  
Jefferson County Planning Commission Meeting  
July 12, 2016

***The waiver, if granted, will be in keeping with the intent and purpose of these Regulations.***

The intent of the requirements for which this waiver is requested is to minimize the number of access points along state roads to allow for the free flow of traffic. Allowing a single lot to utilize an existing access point within the pipestem is not contrary to the intent and purposes of these Regulations.

***The waiver, if granted, will result in a project of better quality and/or character.***

While it is preferred that all subdivision lots access an internal subdivision road, allowing one lot to utilize an existing access point does not necessarily negatively impact the quality or character of the development.

Staff Recommendation

Staff recommends approval of this waiver provided it is restricted to allowing access for one lot only.

# Engineering Report

## Lynch Minor Subdivision

**Waiver to allow the access point along the required 200' of frontage be waived and to utilize the existing 40' pipe stem to Leetown Road for a second access point.**

**07/12/2016**

### Request:

Nina Lynch, the property owner of parcel 3.46, on tax map 8, in Middleway District is requesting a waiver from the requirements of the JEFFERSON COUNTY SUBDIVISION AND LAND DEVELOPMENT ORDINANCE (2008), Section 20.201.A.2 Minor Subdivision, as follows:

Access. In the Rural District, lots having a minimum road frontage of 200 feet may front on an existing road right-of-way having a width of 50 feet. Shared driveway access may be required. All other lots, regardless of the zoning district, shall have motor vehicle access to a road right-of-way via a 50' access easement which extends from the subdivided lots to the existing road right-of-way and the access easement serves no more than five (5) lots. Said access easement shall not be permitted along any existing property lines.

The applicant is requesting that the access point along the 200' of frontage along Meandering Lane be waived and allow the point of access be through the existing 40' pipe stem to Leetown Rd.

### Findings:

The 40' pipe stem was created in 1974 in plat book 3 page 40, "Woodbury Subdivision."

The lot being subdivided was created under the major subdivision process 03-09 Merryfield Estates.

The applicant wants to subdivide lot via the parent to child process.

The proposed subdivision is proposed to be processed as a minor subdivision.

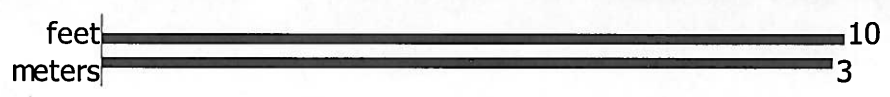
### Conclusion:

The 200' is required to keep spacing between both entrances so they have less chance of conflict with one another. From the attached Google Earth photo, the entrance along Leetown Road would be closer than 200' to the neighboring entrance to the south. Therefore, there is a higher possibility of a conflict if approved.

Engineering recommends denial of this waiver and request that the applicate use the Meandering Lane for their access.



Google earth





JEFFERSON COUNTY, WEST VIRGINIA
Departments of Planning and Zoning
116 East Washington Street, P.O. Box 338
Charles Town, WV 25414

Staff Initials: ck
Sketch Received:
List of Adjoiners:
Fees Paid: \$100.00

www.jeffersoncountywv.org/government/departments/planning-and-zoning-department.html #PCW16-06

Email: planningdepartment@jeffersoncountywv.org
zoning@jeffersoncountywv.org

Phone: (304) 728-3228
Fax: (304) 728-8126

Waiver Request

Note: Waivers from the 2008 Amended Subdivision Regulations must comply with Division 24.300 of the Subdivision Regulations.

Sketch on a separate sheet of paper the shape and location of lot. Show the location of the intended construction or land use indicating building setbacks, size, and height. Identify existing buildings, structures, or land uses on the property. Sign and date the sketch. Provide a vicinity map of the area and a list of the adjoining property owner's mailing addresses.

Property Owner Information

Name: NINA LYNCH
Mailing Address: 1570 EBONELAZ CHURCH RD GORE, VA 22637
Phone Number: 540-538-5628 Email: nlynch314@gmail.com

Applicant Contact Information

Name:
Mailing Address: SAME
Phone Number:
Email:

Applicant Registered Engineer(s), Surveyor(s), or Consultant(s)

Name: ED JOHNSON
Mailing Address: 674 ACORN CIRCLE HARPOUS FORRY, WV. 25425
Phone Number: 304-279-9924 Email: edjohn540@frontiernet.net

Physical Property Details

Physical Address: NONE
City: State: Zip Code:
Tax District: MIDDLEWAY Map No: 8 Parcel No: 396
Parcel Size: 18.19 AC Deed Book: 1119 Page No: 363

Zoning District (please check one)

Grid of zoning districts with checkboxes: Residential Growth (RG), Industrial Commercial (IC), Rural (R), Residential-Light Industrial-Commercial (R-LI-C), Village (V), Neighborhood Commercial (NC), General Commercial (GC), Highway Commercial (HC), Light Industrial (LI), Major Industrial (MI), Planned Neighborhood Development (PND), Office/Commercial Mixed-Use (OC). Rural (R) is checked.

RECEIVED JUN 21 2016 JEFFERSON COUNTY PLANNING ZONING & ENGINEERING Place Date Stamp Here

What Section of the Subdivision Regulations are you Requesting to Waive?

SECTION 20.201.A.2, SECTION 2.3.A.1

Briefly Describe the Nature of Your Waiver Request:

THE EXISTING 18.19 ACRE PARCEL EXISTS WITH A 40' PIPESTON. IT IS LOT 1 OF MORRYFIELD FARM STATES. I WANT TO CREATE A PARCEL TO CHILD LOT WITH DIRECT ACCESS TO LETTOWN ROAD VIA THE EXISTING FORTY FOOT PIPESTON

Explain how the design of the project will provide public benefit in the form of reduction in County maintenance costs, greater open space, parkland consistent with the County Parks Plan or benefits of a similar nature.

THERE IS NO PUBLIC BENEFIT, IT IS A PARCEL TO CHILD LOT

Explain how the waiver, if granted, will not adversely affect the public health, safety, or welfare or the rights of adjacent property owners or residents.

THE PIPESTON EXISTED HISTORICALLY AS AN ENTRANCE TO THE FARM AND WOULD NOT CREATE ANY ADDITIONAL BURDEN TO HEALTH, SAFETY OR WELFARE OF THE ADJOINERS

Explain how the waiver, if granted, will be in keeping with the intent and purpose of this Ordinance.

THE PARCEL EXISTS WITH A 40' PIPESTON. IN THE PAST IT HAD BEEN ACCEPTABLE FOR NEWLY CREATED PARCELS TO BE SERVED BY A 40' ACCESS EASEMENT. IT WAS ALL THAT WAS REQUIRED UNTIL THE NEW ORDINANCE WAS ADOPTED.

Explain how the waiver, if granted, will result in a project of better quality and/or character.

THERE WILL BE LESS PARCELS BEING SERVED BY MEANDERING LAINE WHICH CURRENTLY EXISTS AS A GRAVEL ROAD. THE FAMILY PARCEL WOULD HAVE IT'S OWN ACCESS TO LETTOWN ROAD. THERE IS NO OTHER USE FOR THE 40' PIPESTON OTHER THAN FOR ACCESS

Original signature is required. The information given is correct to the best of my knowledge.

Ron D. Spelt 6/20/16  
Signature of Property Owner Date

\_\_\_\_\_  
Signature of Property Owner Date

To Be Completed By Office

7/12/16 Date of Public Meeting/Public Hearing

6/22/16 Date Property to be Posted By

\_\_\_\_\_  
Official/Administrative Body

6/22/16 Date Adjoiner Letters to be Mailed

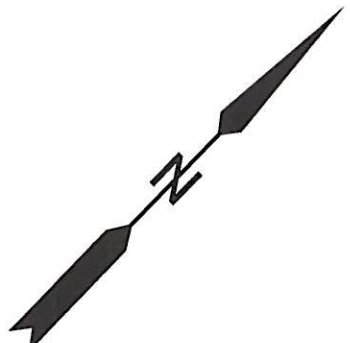
Approved/Denied by a vote of \_\_\_\_\_ for and \_\_\_\_\_ against this \_\_\_\_\_ day of \_\_\_\_\_,

Approved  Denied

LEETOWN ROAD WV ROUTE 1  
N 42°31'56" E



CURVE	RADIUS	ARC LENGTH	CHORD LENGTH	CHORD BEARING	DELTA ANGLE	TANGENT
C1	525.00'	380.48'	372.21'	N 24°17'52" E	41°31'25"	199.03'
C2	295.00'	178.22'	175.52'	S 20°50'36" W	34°36'51"	91.92'
C3	550.00'	170.95'	170.26'	N 29°14'46" E	17°48'30"	86.17'
C4	2525.00'	60.14'	60.14'	N 19°39'35" E	01°21'53"	30.07'
C5	429.52'	50.14'	50.11'	S 22°19'16" W	06°41'16"	25.10'



40.01'  
N 47°52'32" E  
1011.75'  
1012.05'  
W

ACCESS FOR  
PARENT TO  
CHILD LOT

**PARENT TO CHILD LOT  
LOT 1  
356259 SQ. FT.  
8.179 ACRES**

**LOT 2- RESIDUE  
10.009 ACRES**

N 42°07'28" E 2064.06'

1601.14'

S 47°52'32" E  
144.54'

305.64'  
S 45°03'35" W

N 64°20'10" W 745.75'

S 20°20'31" W 449.59'  
MEANDERING LANE - R/W VARIES

S 18°58'38" W 417.01'

**RECEIVED**

JUN 21 2016

JEFFERSON COUNTY PLANNING,  
ZONING & ENGINEERING

SKETCH PLAT SHOWING A PARENT TO CHILD LOT  
A RESUBDIVISION OF LOT 1 MERRYFIELD FARM ESATES  
THE PROPERTY OF  
NINA D. LYNCH  
DEED BOOK 1119 PAGE 363  
TAX MAP 8 PARCEL 3.46  
MIDDLEWAY DISTRICT  
JEFFERSON COUNTY, WEST VIRGINIA  
SCALE: 1" = 200' OCTOBER 30, 2015

HITE ROAD  
WV ROUTE  
1/4

John R. and Barbara Pichot  
12586 Leetown Road  
Kearneysville, WV 25430

July 6, 2016  
Page 1

To the Jefferson County Planning Commission  
Re: Public Notice PCW 16-06

In response to the public notice of the waiver request from Article 20.201.A and Appendix B, Section 23.A.1 of the Jefferson County subdivision and land development regulations. Hearing scheduled for Tuesday, July 12, 2016:

In our telephone conversation on July 5, 2016 with Rhonda Greenholtz, Planning Clerk, we were told that this waiver request has been made to allow access to an abandoned road terminating on Leetown Road for one, single lot in the subdivision. We were told the waiver request was made in order to avoid construction of a road to join the current access onto Hite Road.

Ms. Greenholtz informed us that the road terminating on Leetown Road is listed as an abandoned road. While the original owner may have "abandoned" the road, we have consistently and continuously used the road as access from our property to Leetown Road. The neighboring property owner and the power company have also routinely used the access road. We have also continuously maintained the boundaries of the road by regular mowing and have removed snow from it in the winter months. In 1975 when we purchased the adjoining property, Lot 11A of the Woodbury subdivision, we were told by Gene Capriotti, representing the property owner/developer Thomas Kerns, that we had the right to access the road in question. As noted, we have used that road for access to our property for the past 40 years based on that assurance and because it provides a safer access to Leetown Road than our existing driveway which has been there for over 150 years.

As you are probably aware, this section of Leetown Road is one of the few parts of that state road between Leetown and Kearneysville that allows traffic to pass. The straight section rises to a blind hill on the Leetown end, so entrance onto Leetown Road can be treacherous. With the completion of new Route 9 between Charles Town and Martinsburg, traffic has increased substantially on Leetown Road as it has become a major access road for traffic from Virginia and South Berkeley County to Route 9. Unfortunately, there has been no upgrade of Leetown Road to handle this traffic increase. Traffic volume, speed and the current shoulder drop-off create a dangerous situation. Adding additional traffic volume entering Leetown Road at this point will create additional hazards.

Page 2

July 6, 2016

The Jefferson County Planning Commission

Public Notice PCW 16-06

Our greatest concern is not with the access for a single lot to the “abandoned” road. Our primary concern is that it not be allowed to become a roadway used by multiple lots in the subdivision, thereby creating a greater traffic hazard in this already dangerous area.

If the Planning Commission chooses to approve this waiver, we ask that only one, single lot be allowed to access the road in question and that such access be constructed so that other lots/properties cannot use the access. We also request that our continued access be a part of any grant of a waiver.

Respectfully submitted,

John R. and Barbara Pichot /s/



# Jefferson County, West Virginia

## Departments of Planning and Zoning

116 East Washington Street, 2<sup>nd</sup> Floor

Charles Town, WV 25414

Email: [planningdepartment@jeffersoncountywv.org](mailto:planningdepartment@jeffersoncountywv.org)

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July 12, 2016

Planning Commission Meeting

RE: ZTA16-01 / Accessory Dwelling Units

As directed by the Planning Commission on June 14, 2016, staff drafted language to the proposed Zoning Ordinance text amendment (ZTA16-01) pertaining to Accessory Dwelling Units. The underlined red text reflects staff's proposed revisions as a result of the direction provided on June 14. The red text that is not underlined is the proposed language that was presented at the meeting on June 14, which was accepted by the Planning Commission but has not yet been reviewed by the County Commission.

## Section 2.2 Definitions

### Accessory Dwelling Unit

A secondary dwelling unit that has a separate kitchen, bathroom, and sleeping area, and may be attached to the principal dwelling unit or detached and situated on the same lot as the principal dwelling unit. An ADU is part of the same property as the main home and cannot be bought or sold separately. The owner of the ADU is the owner of the principal dwelling unit. The property owner must occupy either the principal dwelling unit or the ADU.

### **Accessory Agricultural Dwelling Unit**

An accessory dwelling unit that is incidental and subordinate to the principal dwelling unit, which is located on the same lot as the principal building, and is limited to use by a person (and family) who performs agricultural work on the property or acts as a caretaker for the property.

### In-Law Suite

An accessory dwelling unit that is incidental and subordinate to the principal dwelling unit for the purpose of housing a relative of the property owner.

## Section 8.15 Accessory **Agricultural** Dwelling Unit<sup>26</sup>

An Accessory Dwelling Unit (ADU) is defined as a secondary dwelling unit that has a separate kitchen, bathroom, and sleeping area, and may be attached to the principal dwelling unit or detached and situated on the same lot as the principal dwelling unit. An ADU is part of the same property as the principal dwelling unit and cannot be bought or sold separately. The owner of the ADU is the owner of the principal dwelling unit. The property owner must occupy either the principal dwelling unit or the ADU.

- A. An “In-Law Suite” is an accessory dwelling unit for the purpose of housing a relative of the property owner and must be clearly subordinate to the principal dwelling unit and meet all of the following criteria:
- (a) Secondary in size to the principal dwelling unit, with a maximum size of 1,700 heated square feet, gross floor area;
  - (b) Located on a property of at least 2 acres in area;
  - (c) Limited to use by a relative\*;
  - (d) Sufficient parking available; and
  - (e) Approved by the Health Department.

\*Related by blood, marriage, or adoption. Should relative no longer require the use of the ADU, the property owner may apply for a Special Exception before the Board of Zoning Appeals to allow for rental to non-relatives. The principal dwelling unit or ADU must be occupied by the property owner.

- B. An ~~detached~~ “Accessory Agricultural Dwelling Unit” for agricultural purposes is defined as a dwelling unit that is incidental and subordinate to the principal dwelling unit, which is located on the same lot as the principal building and meets all of the following criteria:
- (a) is secondary in size to the principal dwelling unit, limited in size to a maximum of 1,700 heated square feet, gross floor area;
  - (b) is located on a property for which the primary use is an agricultural use as defined by this ordinance;
  - (c) is located on a property of at least 10 acres in area; ~~and~~
  - (d) is limited to use by a person (and family) who performs agricultural work on the property or acts as a caretaker for the property; ~~and~~;
  - (e) is approved by the Health Department.

One unit of each type of Accessory Dwelling Unit as defined in this section ~~meeting the definition of “Accessory Agricultural Dwelling Unit”~~ may be permitted administratively for each property meeting the criteria of Section 8.15 on the effective date of this Amendment. Additional units may be permitted by Special Exception, which may be approved by the Board of Zoning Appeals following a public hearing. Such public hearing shall be conducted according to the requirements of Section 3.4A.3(c); may be continued according to the requirements of Section 3.4A.3(d); and is subject to the notification requirements of Section 3.4A.3(b). These additional units designed for occupancy by relatives or by farmworkers or caretakers, may be approved based on the Board’s evaluation of the size of the subject property, adequacy of vehicular access to the property, impact on adjacent properties, and compatibility with the neighborhood.

RVs and sheds are prohibited as Accessory Dwelling Units.

**From:** [Martin Burke](#)  
**To:** [Alexandra Haid](#)  
**Cc:** [Rob Aitcheson](#)  
**Subject:** Re: Definition of Battlefield  
**Date:** Monday, June 27, 2016 11:29:41 AM

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Alex,

As mentioned on the phone the Jefferson County Farmland Protection Board is completing a landowners guide, which should be available in September, titled; *Protecting Land and Battlefields in Jefferson County, West Virginia: A Landowners Guide*. There will be four public meetings scheduled in September and October for landowners in battlefield areas and other interested parties, hope Planning Commission members will attend. Altering the proposed definition will bring the JC Zoning Ordinance and terminology used by the JCFPB into alignment. The proposed definition in no way restricts property ownership or property rights.

Battlefield

There are five Federally recognized battlefields in Jefferson County as determined by the Civil War Sites Advisory Commission. For the purpose of this ordinance, green space can include battlefield core areas and areas within the battlefield boundary.

Martin

On Jun 27, 2016, at 10:23 AM, Alexandra Haid <[abeaulieu@jeffersoncountywv.org](mailto:abeaulieu@jeffersoncountywv.org)> wrote:

Martin,

Below is the language the Planning Commission voted on during the June 14 regarding the definition for Battlefield:

Battlefield

There are four Federally recognized battlefields in Jefferson County as determined by the Civil War Sites Advisory Commission. For the purpose of this ordinance, green space includes battlefield core areas.

Alex

Alexandra Beaulieu  
Office/Project Manager  
Jefferson County Departments of Planning and Zoning  
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