



AGENDA
Jefferson County Planning Commission
Tuesday, July 26, 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.

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

1. Approval of Meeting minutes:
 - Corrected minutes from the June 14, 2016 meeting as amended by staff.
 - July 12, 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. **Public Hearing:** Request by applicant CTSS, LLC. (PCW#16-07) for a waiver from Section 21.402.D that requires that no permanent encroachments, structures, fences, or landscaping within the easement area. The applicant is proposing an asphalt driveway, curb, chain link fence, trees and shrubs to be located within the easement area. The property is designated as Tax District: Charlestown (02); Tax Map: 9; Parcel: 8.3; Zoned: Residential-Light Industrial-Commercial (RLIC); Size: 5.4 acres; Owner: CTSS, LLC.

There is no public comment for the remaining items.

4. Request for postponement
5. President's Report.
6. Actionable Correspondence.
7. 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. 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” from 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.

Jefferson County Planning Commission
July 12, 2016

The Jefferson County Planning Commission met on July 12, 2016 with the following Commission members present: Mike Chapman, President; Wade Louthan, Vice President; Donnie Fisher, Secretary; Steve Stolipher, Gary Phalen, Gene Taylor, and Dickie Childs. Staff members present included Jennie Brockman, Director of Planning and Zoning; Lydia Lehman, Assistant Prosecuting Attorney; Jonathon Saunders, County Engineer; and Alexandra Beaulieu, Zoning Administrator.

Mr. Jay Ware was absent with notice.

At present, there is no County Commission Liaison and the Planning Commission consists of eight members until further notice.

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

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

- June 14, 2016

The June 14, 2016 minutes were approved with no objections

2. Citizen Communications. None.

3. Request for postponement: None

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: 0.64 acres; Owner: Jefferson County Commission; Developer: Jefferson County Convention & Visitors Bureau.

Ms. Brockman provided a summary of the request, noting that Planning and Zoning supported the request. She deferred to Engineering for a recommendation. Mr. Saunders provided an overview of Engineering's recommendation, stating that they were in support of the waiver request.

Ms. Annette Gavin, CEO and Mr. Greg Williamson, project architect, spoke on behalf of the Jefferson County Convention & Visitors Bureau. Ms. Gavin provided an overview of the request.

Mr. Chapman opened the floor to public comment.

Mr. David Tabb spoke in opposition to the request. He stated that the sale of the land from the West Virginia Division of Highways to the Jefferson County Commission was not done in accordance with State Code. He also stated that within the deed, ownership of the house, which is owned by the Jefferson County CVB, was not transferred.

Mr. Chapman closed the floor to public comment.

Ms. Gavin provided a rebuttal. She confirmed that the house was not owned by the Jefferson County Commission but by the Jefferson County CVB. She stated that the land is owned by the Jefferson County Commission and that the Jefferson County CVB is leasing the land for \$1.00/year for 100 years.

Mr. Stolipher motioned to approve the request. Mr. Childs seconded the motion, which carried unanimously.

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

Ms. Brockman provided a summary of the request and noted that Planning and Zoning were in support of the request. She deferred to Engineering for a recommendation. Mr. Saunders provided an overview of Engineering's recommendation, stating that they could not support the waiver request.

Mr. Ed Johnson, Surveyor and Ms. Nina Lynch, property owner, provided an overview of the waiver request. Mr. Johnson noted that in speaking with Mr. Todd Wilson of the WV Division of Highways, an updated entrance permit for Merryfield Subdivision, allowing one additional lot to utilize this road, could not be issued unless the owner of Meandering Lane and the adjacent lots, Matt Ridgeway, gave permission. Mr. Johnson stated that the reason for the waiver request was because they could not get permission from Mr. Ridgeway for one additional lot to utilize Meandering Lane. Ms. Lynch provided a detailed history of the property. Ms. Lynch stated that she did submit a written request to Matt Ridgeway but that he never responded to her. She stated that should the Planning Commission grant the waiver, the 40' driveway within the pipestem portion of the lot would only be utilized for the 8 acre parent-to-child lot proposed to be divided from the 18.19 acre (Lot 1) in Merryfield Subdivision. The residue of the parent-to-child division would continue to access Meandering Lane as previously approved. Mr. Johnson added that Todd Wilson with the WVDOH would issue an entrance permit for the 8-acre parcel to access Leetown Road if the Planning Commission approved the waiver request.

Mr. Chapman opened the floor to public comment.

Ms. Barbara Pichot, neighboring property owner, spoke in support of the waiver with a specific request that the Planning Commission restrict access to the parent-to-child lot so that no future lots could have access to the proposed driveway. Ms. Pichot stated that she and her husband had maintained the right-of-way for the last 40-years and believed they had the right to utilize the right-of-way. She requested that if the waiver was granted, that she and her husband be granted permission to continue utilizing the right-of-way.

Mr. Chapman closed the floor to public comment.

Ms. Lynch provided a rebuttal. She agreed to allow the Pichot's continued use of the right-of-way should the waiver be granted.

Mr. Stolipher motioned to approve the waiver request with the restriction to allow access for only one lot. Mr. Phalen seconded the motion, which carried unanimously.

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's recommended language, based on Public Hearing input, voted on at their June 14, 2016 meeting. 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. Beaulieu provided an overview of the proposed text amendment pertaining to Accessory Dwelling Units drafted by staff at the direction of the Planning Commission during the June 14, 2016 meeting.

Mr. Chapman recommended that the definition be changed to reflect, “The property owner *or immediate family member* must occupy either the principal dwelling unit or the accessory dwelling unit.”

Mr. Stolipher recommended that the two acre restriction for In-Law Suites be amended to reflect, “A *detached accessory dwelling unit*, must be located on a property of at least 2 acres.”

Mr. Phalen requested that the word “shed” be removed from the last sentence, “RVs ~~and sheds~~ are prohibited as Accessory Dwelling Units.”

Mr. Phalen made a motion to send the proposed amendment to Section 8.15 Accessory Dwelling Units with the Planning Commission’s revisions to the County Commission.

Mr. Taylor seconded the motion, which carried unanimously.

7. Reports from Legal Counsel and legal advice to the Planning Commission. None.

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.

- Ms. Brockman stated that she would be meeting with Roger Goodwin, Director of the new consolidated department. She noted that she would be given direction during that meeting as to the details of her new role in the department.
- Ms. Brockman noted that a fourth Tuesday meeting had been called for July 26, 2016.

9. President’s Report. None.

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.

The Planning Commission discussed the proposed amended definition. Mr. Stolipher stated that he did not want to change the proposed language to include “*and areas within the battlefield boundary*”. The Planning Commission was in agreement with this recommendation.

They also unanimously agreed to eliminate the reference to the number of Federally recognized battlefields in Jefferson County in case there are additional battlefields identified down the road. The final approved language recommended unanimously by the Planning Commission was: “*There are Federally recognized battlefields in Jefferson County as determined by the Civil War*

Minutes
Planning Commission
July 12, 2016
Page 4 of 4

Sites Advisory Commission. For the purpose of this ordinance, green space includes battlefield core areas.”

11. Non-Actionable Correspondence. None

Mr. Chapman motioned to adjourn the meeting at 8:13 PM.

STAFF REPORT

Jefferson County Planning Commission

July 26, 2016

APPROVALS	
CIS/Concept Plan	<p>05/28/02: Approved for six (6) self-storage buildings totaling approximately 49,000 square feet. Note: Only 5 of the 6 buildings on the approved site plan were constructed on this site 09/30/02: Site Plan Phase I (File #S02-03)</p> <p>04/12/16 Approved for construction of an additional 37,500 square foot self-storage building east of the existing buildings (PC File #S16-01). Merger of part of Parcel 78.1 with 8.3 required.</p>
SITE PLANS	<p>05/19/04: Site Plan Phase II and Buildings 3, 4, & 5 (File #S03-11)</p> <p>08/11/05: Redline revision to add additional employee & handicap parking.</p>
BUILDING PERMITS/ ZONING CERTIFICATES	<p>01/06/03: Buildings 1 & 3 (Permit #'s 03-13, 03-14)</p> <p>10/24/03: Building 2 (Permit #03-1238)</p> <p>08/09/04: Storage Bins (Permit #04-884)</p> <p>11/17/04: Building 4 (Permit #04-1274)</p> <p>08/22/06: Building 5 (Permit #06-1010)</p>
PLANNING COMMISSION VARIANCES/WAIVERS	<p>02/24/04: Variance to reduce driveway grade requirements (Sec. 9, 1979 Sub. Ord.)</p> <p>03/23/04: Variance to allow Ph. II to process under Art. 11 instead of Art. 9 w/ no FP (1979 Sub. Ord.)</p>
BOARD OF ZONING APPEALS VARIANCES	<p>07/18/02: Reduce parking & access drive setbacks from 15' to 5' for mini storage unit (ZV02-26).</p> <p>03/24/16: Variance from Sec. 4.11A.1 and App B to reduce the side & rear setback from 50' to 25'; and to eliminate the required residential landscape buffer to allow for the construction of a proposed 37,500 sq. ft. self-storage facility (ZV16-05).</p> <p>03/24/16: Variance from App B to reduce the rear setback from 50' to 25' for the existing bowling alley to accommodate a proposed lot line adjustment (File: ZV16-06).</p>

Background

The applicant has submitted a Site Plan to permit the construction of an additional 37,500 square feet self-storage building as an expansion to the existing Charles Town Self Storage facility. A Concept Plan reflecting this proposed use and the proposed merger of 2.2 acres from the rear portion of Parcel 8.1 (approx. 5.0 acres) with Parcel 8.3 (3.2 acres) was approved by the Planning Commission in April, 2016.

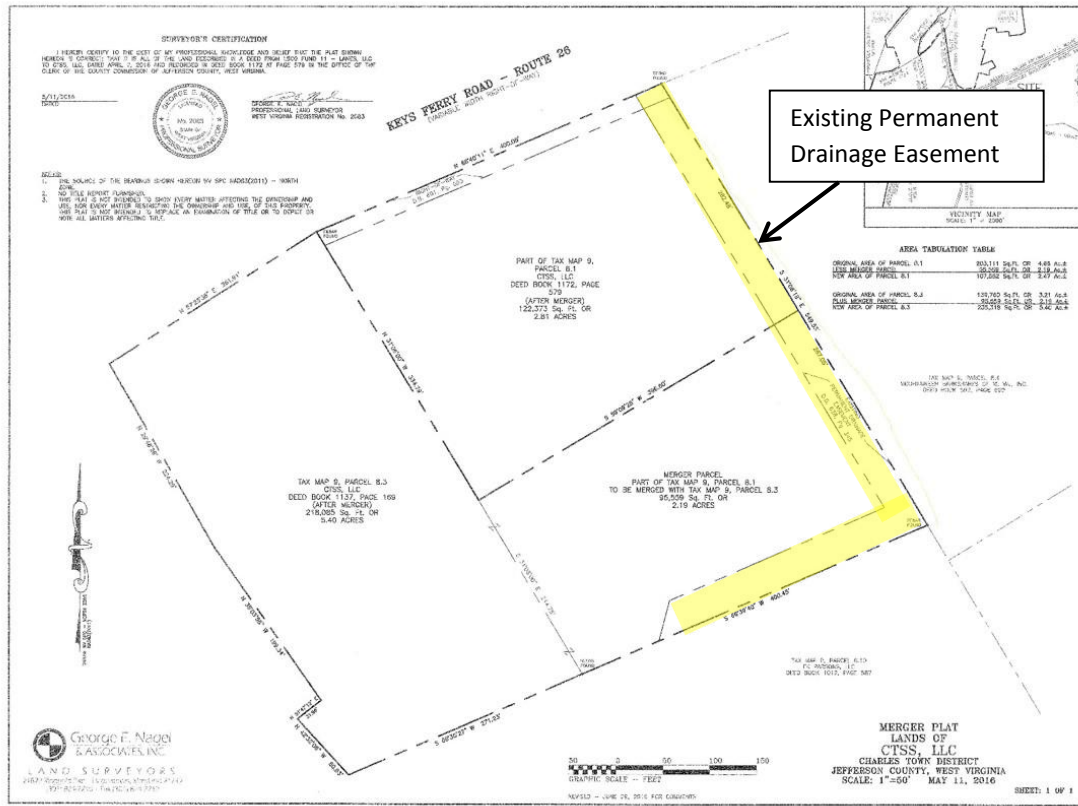
The Request

The applicant is seeking a waiver from Section 21.402.D that requires that no permanent encroachments, structures, fences, or landscaping be located within an easement area. The applicant is proposing an asphalt driveway, curb, chain link fence, trees and shrubs to be located within a 30 foot DOH drainage easement (see graphic below) along the eastern boundary of the property.

STAFF REPORT

Jefferson County Planning Commission

July 26, 2016



Waiver Requirements:

In order to grant a waiver 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 is not relevant 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.

Typically no structures or landscaping are permitted within a utility easement in order to protect the utility itself and to ensure the easement holder has full access to the easement to perform maintenance or make repairs as necessary. If the WV DOH does not object to the proposed uses within their easement, the provision of the landscaping allows the project to be in conformance with the County's Zoning Ordinance requirements and would have a positive effect on the adjacent property owners.

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

If the WV DOH does not object to the proposed improvements and landscaping within their easement, the granting of the waiver allows the project to meet the intent and purpose of other Ordinance requirements. The purpose of the requirement that is requested to be waived is to protect utilities within the designated utility easement and ensure safe and clear access for maintenance and repair. If

STAFF REPORT

Jefferson County Planning Commission

July 26, 2016

the easement holder believes that this intent can still be met with the proposed design, the waiver will allow the project to meet the intent of the Regulations.

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

If the waiver is not granted, the applicant may have to narrow drive aisles and eliminate proposed landscaping. Granting of the waiver will allow the project to conform with the County's drive aisle, fencing and landscaping requirements.

Staff Recommendation

Because this easement is owned and maintained by the WV DOH as a part of their stormwater drainage system related to the state road system in the area, staff would support the requested waiver only if the DOH provides written approval of the proposed uses within their easement and is contingent upon any conditions that the DOH puts on such approval.

Engineering Report

CTSS, LLC

Waiver is to allow encroachments to be placed within any easement area.

07/26/2016

Request:

Gordon, in conjunction with the CTSS, LLC the property owner of parcel 8.3, on tax map 9, in Charles Town District, is requesting a waiver from the requirements of the JEFFERSON COUNTY SUBDIVISION AND LAND DEVELOPMENT ORDINANCE (2008), Sec. 21.402.D Public Easements, as follows:

D. Encroachments, Structures and Landscaping. No permanent encroachments, structures, fences or landscaping shall be allowed to be located within any easement area. The homeowner's association, business owner's association and any of the public service providers shall have the right to remove any encroachment, structures, landscaping, fencing or any other improvements placed upon such public easements.

The applicant is requesting to allow encroachments to be placed within any easement area.

Findings:

The developer is proposing to place the following within the easement:

1. Asphalt driveway
2. Curb and Gutter
3. Chain link fence
4. Trees and shrubs

Shenandoah Lanes, INC, the previous owner of the parcel, "grant, sell, and convey in fee simple unto the Grantee (WVDOH), the following tract or parcel of land" on April 12, 1989. However, the description of this tract or parcel is stated to be a permanent drainage easement. See attached deed.

Rick Romig of the WVDOH has stated in his email that the area is a permanent drainage easement. See attached email.

Robert Glenn of Jackson Kelley PLLC states in his email states that the intent of the deed is for a permanent drainage easement. See attached email.

The Jefferson County Engineering Department believes that the described area is a tract or parcel of land being conveyed in fee simple to the WVDOH.

Conclusion:

As for the subdivision regulation, an easement would require a waiver, but a separate tract or parcel would not. However, both situations would require WVDOH approval.

Therefore, engineering would recommend denial of this waiver unless WVDOH approval is received and documentation is provided to the county.

Rhonda Greenholtz

From: Jennifer Brockman
Sent: Thursday, July 21, 2016 9:34 AM
To: Rhonda Greenholtz
Cc: Jonathan Saunders; Planning Department
Subject: FW: Charles Town Self Storage Expansion

Rhonda

Please include this as an attachment to the staff reports for next Tuesday's meeting.

Thanks

Jennie

Jennie Brockman
Director, Planning and Zoning

From: Knotts, Barry A [mailto:Barry.A.Knotts@wv.gov]
Sent: Thursday, July 21, 2016 7:33 AM
To: Kristen Stolipher
Cc: Glenn, Robert E.; Noah Mehrkam (noah@arc.land); tom@arc.land; Jonathan Saunders; Jennifer Brockman; Thorne, Lee J; Romig, Rick E; Wilson, Gary T
Subject: RE: Charles Town Self Storage Expansion

Good Morning Kristen,

Yes, it has been awhile. We are currently in the process of preparing our maintenance organizations budget allocation plans for FY 2017, which precludes any in-depth review of the proposed work at this time. We will also need to request our Legal Division's opinion as to the overall issue of work being allowed within the easement area.

However, based on a quick review of your submittal, there appears to be some proposed work within the easement area that is of concern to the WVDOH, including the construction of a retaining wall within the easement area and the proposed modifications to the drainage system itself. Any proposed changes to the drainage system would need to be authorized by permit after further review.

In order to fully evaluate the proposed work, please submit two full size copies of the plans, a brief narrative, and any other pertinent information to my attention.

Respectively,

Barry A. Knotts, P.E., P.S.
Maintenance Engineer
WV Division of Highways - District 5
(304) 289-3521



From: Kristen Stolipher [<mailto:kstolipher@gordon.us.com>]
Sent: Monday, July 18, 2016 3:07 PM
To: Knotts, Barry A
Cc: Glenn, Robert E.; Noah Mehrkam (noah@arc.land); tom@arc.land
Subject: Charles Town Self Storage Expansion

Barry,

It's been awhile. I had to dig out your email address and dust it off. Hope all is well.

I have a question on a project we are working on. We are proposing an expansion to the existing Charles Town Self Storage on the property just behind the old bowling alley in Charles Town. I have attached the plans for the property.

There is an existing WVDOH drainage easement for an underground pipe which runs through this property. We are proposing a portion of the asphalt travel aisle, a curb and a fence within the limits of the easement. Note the fence is just on the outside of the easement so there is no issue with any subsurface encroachments of the pipe. Plus the pipe itself is rather deep. Additionally, there is no restriction of the surface water from getting to the drainage inlet at the southeastern corner of our site.

We have had our attorney, Robert Glenn (Bowles Rice) take a look at the deed and his interpretation is that the deed language does not prohibit the proposed improvements within the easement. I have attached a copy of the deed for your review, Deed Book 628, Page 345.

Jefferson County is requiring that we go before the Planning Commission next Tuesday evening (26th) for a waiver to allow these encroachments within the easement.

Is it possible for you to take a look at this and let me know the following:

- 1) Is the proposed improvements are acceptable to WVDOH?
- 2) Provide a statement about the acceptability of these improvements?

I know this is a super quick turnaround but was hopeful you could provide this prior to next Tuesday. Please call or email with any questions.

Thanks,
Kristen
Kristen M. Stolipher
Project Director



301 N. Mildred Street, Suite 1, Charles Town, WV 25414
Main: 304.725.8456 | **Direct:** 304.930.5780 | **Mobile:** 304.904.7359 | **Web:** gordon.us.com



View my profile on [LinkedIn](#)

#PCW16-07



JEFFERSON COUNTY, WEST VIRGINIA

Departments of Planning and Zoning

116 East Washington Street, P.O. Box 338
Charles Town, WV 25414

Staff Initials: CFC
Sketch Received: 07-05-16
List of Adjoiners:
Fees Paid: \$100.00

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: CTSS, LLC.
Mailing Address: P.O. BOX 25523, WASHINGTON, D.C. 20027
Phone Number: 202-243-7530 Email: TOM@ARC.LAND

Applicant Contact Information

Name: CTSS, LLC.
Mailing Address: P.O. BOX 25523, WASHINGTON, D.C. 20027
Phone Number: 202-243-7530 Email: TOM@ARC.LAND

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

Name: GORDON
Mailing Address: 301 NORTH MILDRED STREET, CHARLES TOWN, WV 25414
Phone Number: 304-725-8456 Email: KSTOLIPHER@GORDON.US.COM

Physical Property Details

Physical Address: KEYES FERRY ROAD
City: CHARLES TOWN State: WV Zip Code: 25414
Tax District: CHARLES TOWN (2) Map No: 9 Parcel No: 8.3
Parcel Size: 5.40+/- AC. (AFTER MERGER) Deed Book: 1137 Page No: 169

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). R-LI-C is checked.

RECEIVED

JUL 05 2016

JEFFERSON COUNTY PLANNING, ZONING & ENGINEERING

Place Date Stamp Here

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

SECTION 21.402.D

Briefly Describe the Nature of Your Waiver Request:

THIS REQUEST IS TO WAIVE THE REQUIREMENT THAT NO ENCROACHMENTS BE WITHIN ANY EASEMENT AREA. THERE IS AN EXISTING WVDOH EASEMENT THAT RUNS ALONG THE EASTERN PORTION OF THE PROPERTY. THE SITE DEVELOPMENT IS PROPOSING ASPHALT, CURB, FENCING AND LANDSCAPING WITHIN THE EASEMENT. A LEGAL REVIEW OF THE EASEMENT LANGUAGE FINDS THAT THERE ARE NO BUILDING RESTRICTIONS WITHIN THE EASEMENT.

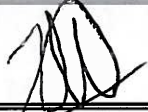
Explain how the design of the project will provide public benefit in the form of reduction in County maintenance costs, greater open space, parkland consistent with the County Parks Plan or benefits of a similar nature.
SEE ATTACHED JUSTIFICATION

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 JUSTIFICATION

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

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

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



Signature of Property Owner 7-5-2016
Date

Signature of Property Owner _____
Date

To Be Completed By Office

July 26, 2016 Date of Public Meeting/Public Hearing

Official/Administrative Body

July 12, 2016 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



JEFFERSON COUNTY, WEST VIRGINIA

WAIVER PERMIT APPLICATION

Gordon has submitted a Site Plan for approval for the construction of a new Self-Storage facility expansion to the existing Charles Town Self Storage Building. The Site Plan includes a 37,500 square foot building with associated parking, utilities and landscaping. The lots is currently encumbered on the east side by an existing WVDOH storm drainage easement.

The Jefferson County Ordinance requires the following with regard to easements and we are hereby requesting a waiver from Section 21.402.D:

Sec. 21.402 Public Easements⁴

General. All easements for all public (water, sewer, stormwater management or storm drainage facilities) or public service type facilities (telephone, electric, gas, cable) that serve the subdivision or site development shall be set forth on the plat or in the deed. Such easements shall be located in street right-of-ways, *alleys*, or side or rear yards as determined by the County in accordance with the particular plans and layout of the utility or other service providing company. All easements shall provide for access without notification to the property owner for the maintenance, repair, or other work needed in the easement or to the facility in the easement. The following standards shall apply to easements:

- A. **Utility Easements.** A utility easement shall be a minimum of 15 feet wide or a width acceptable to grantor and grantee. Easements that fall on shared side or rear lot lines, unless specifically authorized by the County, shall be of equal dimensions on both lots involved. Where attached housing types are involved and yards are enclosed or very narrow, easements shall be in front or rear yards.
- B. **Stormwater.** All stormwater facilities shall be located on open space land, on easements on the lots, or on public rights of way. Easements shall run in favor of the homeowner's association, business owner's association and any of the public service providers using the easement. Drainage easements shall be provided on all lots to ensure that stormwater channels remain clear of development. Where attached housing types are involved and yards are enclosed or very narrow, drainage easements shall be placed on lots to convey *surface water* to storm sewers located on the street or to surface drainage channels located in easements or open spaces as topography and grading dictate. Easements shall be designed for a 10 year storm event and in no case shall be less than 15 feet wide.
- C. **Open Space Deed Restrictions and Covenants.** Deed restrictions and covenants shall preserve open space, protect natural resources, and protect land held in common or used for recreation and/or open space. All areas subject to deed restrictions or covenants shall be restricted from further residential development and shall run in favor of all lot owners in the development or the homeowner's association.
- D. **Encroachments, Structures and Landscaping.** No permanent encroachments, structures, fences or landscaping shall be allowed to be located within any easement area. The homeowner's association, business owner's association and any of the public service providers shall have the right to remove any encroachment, structures, landscaping, fencing or any other improvements placed upon such public easements.

www.gordon.us.com
DCJS License # Is 11-7158

PROGRAMMING AND PLANNING
CIVIL ENGINEERING
LANDSCAPE ARCHITECTURE
SURVEY AND MAPPING
SECURITY CONSULTING

There are several encroachments within the existing WVDOH storm drainage easement:

- 1) A proposed asphalt driveway
- 2) A curb along the eastern edge of the proposed asphalt driveway
- 3) A chain link fence for the self-storage area
- 4) Trees and shrubs within the eastern portion of the easement (not located on top of the existing storm drainage pipe)

We have reviewed the existing easement language and there are no conditions which prohibit the above proposed improvements to be within the existing easement therefore we are hereby requesting that Jefferson County waive the requirement of no permanent encroachments, structures, fences or landscaping within the easement area.

The following points respond to specific points on the Waiver Request Application:

- 1. 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 nature of this Site Plan application is for a business that will serve this County's need for self-storage units. The specific nature of this request will allow for paving, curb, fencing and landscaping to be placed within an easement as needed for this site development. The owner and easement language are in agreement that though these items are being placed within portions of the existing easement, should the utility need maintenance or repair, the items will be removed and replaced as needed.

- 2. 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.**

This waiver, if granted, will have a positive impact on public health and safety as the site improvements will allow for security, safe access and adequate landscaping while in compliance with the existing easement requirements.

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

The intent of the ordinance is to protect underground utilities and to eliminate damage to private property if repair is needed. This waiver, if granted, will be in keeping with the intent and purpose of the ordinance since the easement language protects the utility and the improvements within the easement.

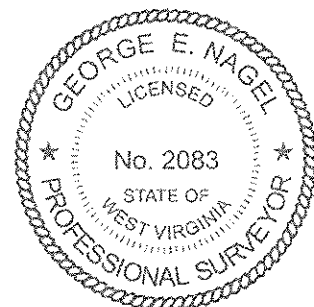
- 4. Explain how the waiver, if granted, will result in a project of better quality and/or character.**

If this waiver is granted, there will be adequate drive aisles, fencing, landscaping and curbs for the proposed improvements while maintaining the integrity of the utility and easement.

SURVEYOR'S CERTIFICATION

I HEREBY CERTIFY TO THE BEST OF MY PROFESSIONAL KNOWLEDGE AND BELIEF THAT THE PLAT SHOWN HEREON IS CORRECT; THAT IT IS ALL OF THE LAND DESCRIBED IN A DEED FROM LSCG FUND 11 - LANES, LLC TO CTSS, LLC, DATED APRIL 7, 2016 AND RECORDED IN DEED BOOK 1172 AT PAGE 579 IN THE OFFICE OF THE CLERK OF THE COUNTY COMMISSION OF JEFFERSON COUNTY, WEST VIRGINIA.

5/11/2016
DATED

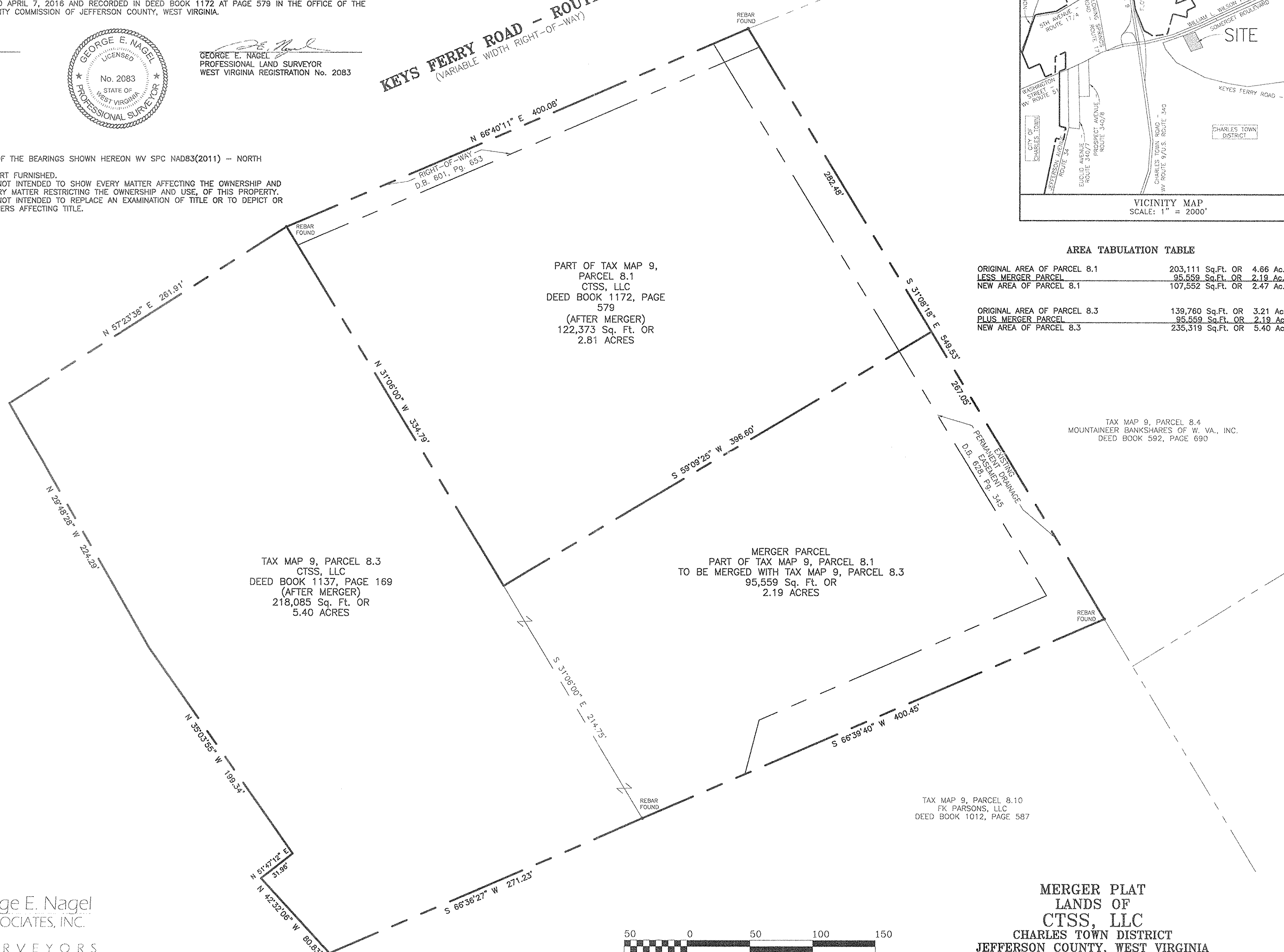
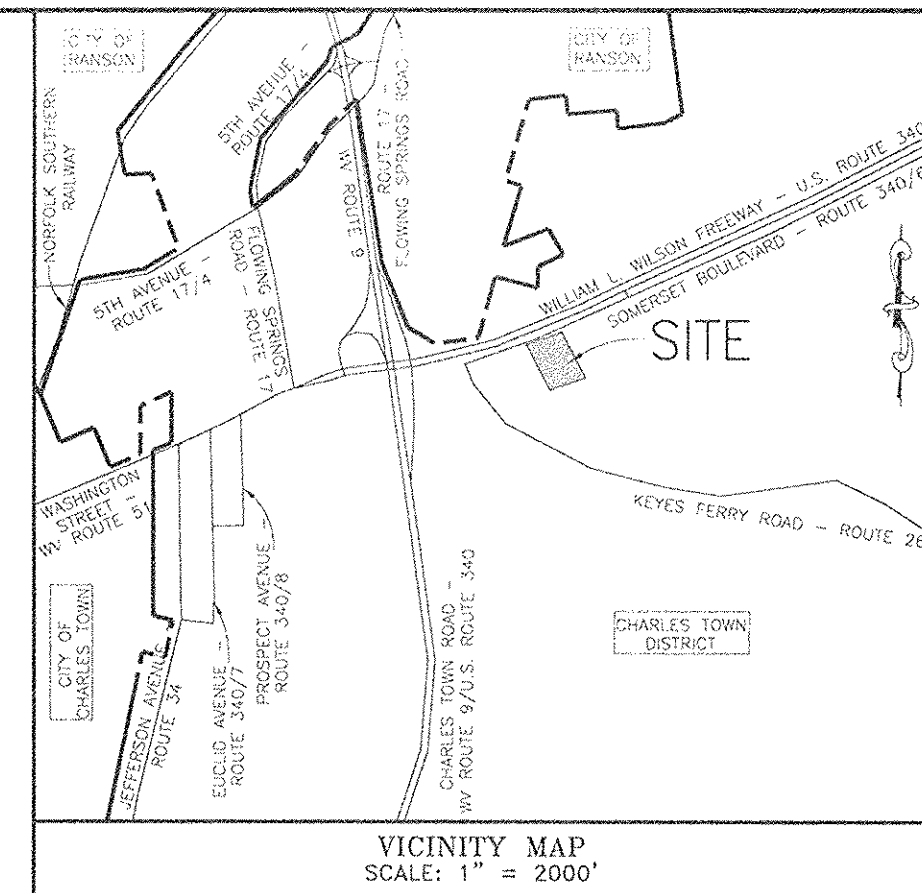


GEORGE E. NAGEL
PROFESSIONAL LAND SURVEYOR
WEST VIRGINIA REGISTRATION No. 2083

KEYS FERRY ROAD - ROUTE 26
(VARIABLE WIDTH RIGHT-OF-WAY)

NOTES:

1. THE SOURCE OF THE BEARINGS SHOWN HEREON WV SPC NAD83(2011) -- NORTH ZONE.
2. NO TITLE REPORT FURNISHED.
3. THIS PLAT IS NOT INTENDED TO SHOW EVERY MATTER AFFECTING THE OWNERSHIP AND USE, NOR EVERY MATTER RESTRICTING THE OWNERSHIP AND USE, OF THIS PROPERTY. THIS PLAT IS NOT INTENDED TO REPLACE AN EXAMINATION OF TITLE OR TO DEPICT OR NOTE ALL MATTERS AFFECTING TITLE.



PART OF TAX MAP 9,
PARCEL 8.1
CTSS, LLC
DEED BOOK 1172, PAGE
579
(AFTER MERGER)
122,373 Sq. Ft. OR
2.81 ACRES

TAX MAP 9, PARCEL 8.3
CTSS, LLC
DEED BOOK 1137, PAGE 169
(AFTER MERGER)
218,085 Sq. Ft. OR
5.40 ACRES

MERGER PARCEL
PART OF TAX MAP 9, PARCEL 8.1
TO BE MERGED WITH TAX MAP 9, PARCEL 8.3
95,559 Sq. Ft. OR
2.19 ACRES

TAX MAP 9, PARCEL 8.10
FK PARSONS, LLC
DEED BOOK 1012, PAGE 587

AREA TABULATION TABLE

ORIGINAL AREA OF PARCEL 8.1	203,111 Sq.Ft. OR	4.66 Ac.±
LESS MERGER PARCEL	95,559 Sq.Ft. OR	2.19 Ac.±
NEW AREA OF PARCEL 8.1	107,552 Sq.Ft. OR	2.47 Ac.±

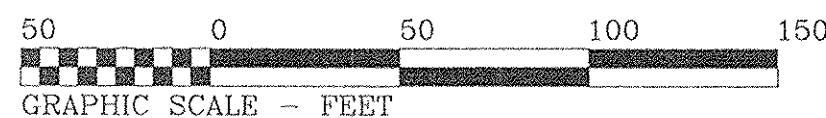
ORIGINAL AREA OF PARCEL 8.3	139,760 Sq.Ft. OR	3.21 Ac.±
PLUS MERGER PARCEL	95,559 Sq.Ft. OR	2.19 Ac.±
NEW AREA OF PARCEL 8.3	235,319 Sq.Ft. OR	5.40 Ac.±

TAX MAP 9, PARCEL 8.4
MOUNTAINEER BANKSHARES OF W. VA., INC.
DEED BOOK 592, PAGE 690



George E. Nagel
& ASSOCIATES, INC.

LAND SURVEYORS
21827 Ringgold Pike - Lagers town, Maryland 21742
(301) 824-2240 - Fax (301) 824-2242



REVISED - JUNE 29, 2016 PER COMMENTS

MERGER PLAT
LANDS OF
CTSS, LLC
CHARLES TOWN DISTRICT
JEFFERSON COUNTY, WEST VIRGINIA
SCALE: 1"=50' MAY 11, 2016

1-5-2016 [Signature]

PROGRAMMING AND PLANNING
 CIVIL ENGINEERING
 LANDSCAPE ARCHITECTURE
 SURVEY AND MAPPING
 SECURITY CONSULTING

Gordon
 301 N. Mildred Street, Suite 1
 Charles Town, WV 25414
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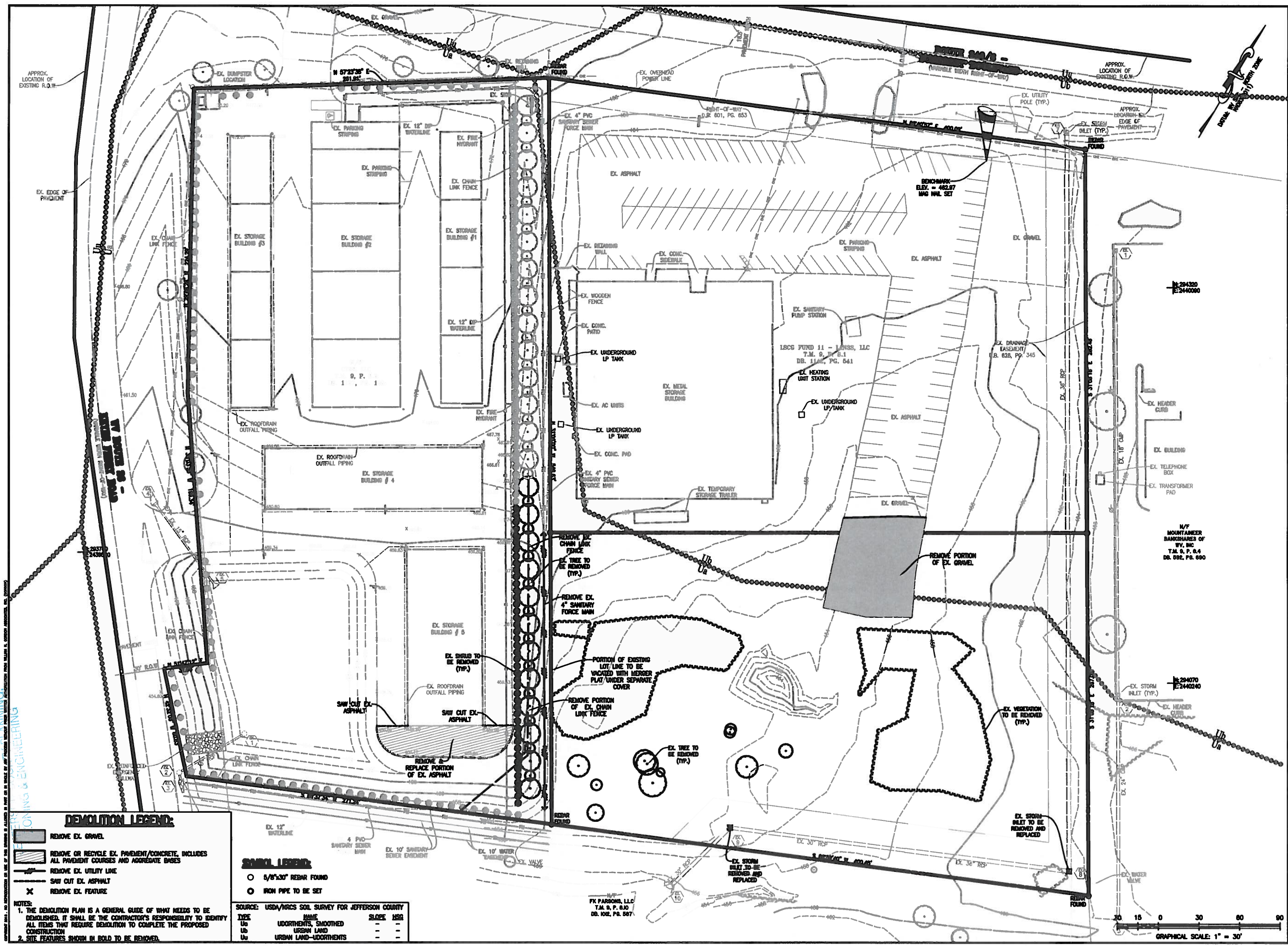


NO.	REVISIONS

EXISTING CONDITIONS

CHARLES TOWN SELF STORAGE EXPANSION
 TAX MAP & PARCEL MAP
 CHARLES TOWN TAX DISTRICT
 JEFFERSON COUNTY, WEST VIRGINIA

SCALE:	HORIZ: 1"=30'
	VERT: 1"=30'
DATE:	APRIL 2016
JOB:	2581-0102
DRAWN:	MAC
CHECK:	JPG
CADD:	C-XP-101.DWG
NCS:	XP-101
SHEET:	03 OF 18



RECEIVED
 JUL 05 2016

DEMOLITION LEGEND:

- REMOVE EX. GRAVEL
- REMOVE OR RECYCLE EX. PAVEMENT/CONCRETE, INCLUDES ALL PAVEMENT COURSES AND AGGREGATE BASES
- REMOVE EX. UTILITY LINE
- SAW CUT EX. ASPHALT
- REMOVE EX. FEATURE

NOTES:

1. THE DEMOLITION PLAN IS A GENERAL GUIDE OF WHAT NEEDS TO BE DEMOLISHED. IT SHALL BE THE CONTRACTOR'S RESPONSIBILITY TO IDENTIFY ALL ITEMS THAT REQUIRE DEMOLITION TO COMPLETE THE PROPOSED CONSTRUCTION
2. SITE FEATURES SHOWN IN BOLD TO BE REMOVED.

SOIL LEGEND:

- 5/8"x30" REBAR FOUND
- IRON PIPE TO BE SET

SOURCE:	NAME	SLOPE	HSU
USDA/NRCS SOIL SURVEY FOR JEFFERSON COUNTY			
Us	UDORMENTS, SMOOTHED	-	-
Uu	URBAN LAND	-	-
Uv	URBAN LAND-UDORMENTS	-	-

PLANNING & ENGINEERING