



AGENDA  
Jefferson County Planning Commission  
Tuesday, July 11, 2017, 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.**

---

Introduction of new Planning Commission member Mr. Jack Hefestay.

1. Approval of Meeting minutes:
  - June 13, 2017.
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:** Public Hearing on the proposed text amendment to the Jefferson County Zoning and Land Development Ordinance, File #ZTA 16-02. The text amendment, in accordance with WV Code §8A-7-13 proposes revisions and additions to multiple sections of the Zoning Ordinance including Section 2.2, Terms Defined; Section 3.4 Boards and Commissions; Section 4.6, Distance requirements; Section 4.14 Historic Preservation; Section 5.10, Village (V) District; Section 8.19, Adaptive Reuse of Historic Structures; Section 10.4, Signs Requiring a Zoning Permit and Appendix C: Principal Permitted and Conditional Uses Table.
5. **Public Hearing:** Request by applicant Roderick Planes, LLC / Aspen Greens Phase IIB (File #PCV17-01) to be represented by Gates Associated, Inc. for a variance from Article 6, Section 6.3 of the 1979 Jefferson County Subdivision Ordinance which requires a public hearing within 24 months of the previous phase. The applicant is requesting a 36-month extension from June 9, 2017 to June 10, 2020, to advance through the Final Plat public hearing for this development. Property location: Northeast of the intersection of Old Country Club Road with Flowing Springs Road. The property is designated as Tax District: Charles Town (02); Tax Map: 4; Parcel: 19; Size: 110.71 acres; CUP approved for 203 lots total; Zoned: Rural (R).
6. **Public Hearing:** Request by applicant Family Adventure Resort, LLC. (File#PCW17-03) to be represented by P.J. Raco Consulting, LLC, for a waiver from Appendix B, Table 2.2-1, Roadway Design Standards requiring a 9% maximum road grade for Non-Residential/Industrial & Commercial Streets to allow an increased slope from Alstadts Hill Road to the Clarion Hotel (formerly Cliffside) provided the WVDOH approves the connection. The applicant is also requesting a waiver from Appendix B, Section 2.5.I, Off-Street Parking Standards requiring parking area access driveways and entrances leading from the public road or subdivision street, and also the parking area internal access drives connecting physically separated parking bays, to not exceed an 8% grade. The applicant is only citing this section in the event the road would be classified as an internal access road. The property is

There is no public comment for the remaining items.

7. Staff request for Planning Commission decision as to whether a Final Plat for the Sticket Minor Subdivision which was approved by the Planning Commission on August 22, 1989 but never recorded is still valid under the 1979 Subdivision Ordinance or if the current property owner would need to process under the current Subdivision Regulations currently in effect. The property is designated as Tax District: Charles Town (02); Tax Map: 14; Parcel: 4.9 and 4.12. Size: Parcel 4.9 contains 8.048 acres and Parcel 4.12 contains 5.089 acres; Zoned: Rural (R).
8. Staff request for clarification on the revised cluster provision in Section 5.7D.2 of the Zoning Ordinance amended March 16, 2017 (discussion and possible action).
9. Reports from Legal Counsel and legal advice to the Planning Commission.
  - a) Active Litigation:
    - Shiloh Citizens Association: Report on legal action in Supreme Court, Docket #15-1031.
10. Planners Memo.
11. President's Report.
12. Actionable Correspondence.
13. 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.

Jefferson County Planning Commission  
June 13, 2017

The Jefferson County Planning Commission met on June 13, 2017 with the following Commission members present: Donnie Fisher, President; Steve Stolipher, Vice President; Peter Onoszko, J Ware, and Ray Bruning. Staff members present included Jennifer Brockman, County Planner; Jonathan Saunders, County Engineer; Nathan Cochran, Assistant Prosecuting Attorney; and Alex Beaulieu, Zoning Administrator.

Mr. Gary Phalen, Mr. Wade Louthan, Mr. Gene Taylor, and Mr. Ron Thomas were absent with prior notification.

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

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

- May 23, 2017 (Postponed from May 9, 2017)

The minutes were approved with no objections.

2. Citizen Communications. None.

3. Request for postponement. None.

4. Request for a waiver by Grace Baptist Church from Section 21.401 of the Subdivision Regulations to allow existing parking to remain within the 50' access easement along the eastern boundary line of the property. (PCW#17-02). The property is located at 4272 Charles Town Road and is designated as Tax District: Middleway (07); Tax Map: 2; Parcel 2.6; Size: 3.91 acres; Zoned: Rural.

Ms. Jennifer Brockman provided an overview of the staff report and noted that the site was the former location for Walls Nursery. On April 11, 2017 the Planning Commission reviewed the Concept Plan for Grace Baptist Church and provided direction to proceed with the Site Plan. Ms. Brockman stated that the applicant submitted a Site Plan and during Staff's review of the Site Plan, it was determined that a waiver was required to allow the existing 10 parking spaces to remain within the 50' access easement.

Ms. Lisa McCauley with Allegheny Surveys, spoke on behalf of the applicant and provided an overview of the request. Ms. McCauley noted that the Pastor was in contact with the adjoining property owners to the west and the south. Both property owners are in favor of the proposed project. She stated that the Pastor would be submitting letters of support from both property owners. Ms. McCauley noted that the parcel to the east is vacant and that the Pastor did not receive feedback from the property owner.

Mr. Fisher opened the floor to public comment.

No public comment was made.

Mr. Fisher closed the floor to public comment.

Mr. Steve Stolipher made a motion to grant the waiver as presented. Mr. Jay Ware seconded the motion which carried unanimously.

5. Discussion and recommendation: Planning Commission review and recommendation to the County Commission regarding whether the petition for a Zoning Map Amendment by property owner Harpers Ferry Holdings, LLC for a property located at 126 Alstadts Hill Road is consistent with the *Envision Jefferson 2035 Comprehensive Plan*. This property is currently zoned Residential Growth (RG), and the applicant is requesting Residential/Light Industrial/Commercial District (R-LI-C) zoning. The property is designated as Tax District: Harpers Ferry (04); Tax Map: 9; Parcel: 58.1; Size: 1 acre. The County Commission has scheduled a Public Hearing on this petition for June 29, 2017 at 7:00 PM in the Old Charles Town Library Meeting room.

Ms. Brockman pointed out the property location on the Zoning Map and noted that the surrounding parcels were zoned Residential-Light Industrial-Commercial.

Mr. Paul Raco, with PJRaco Consulting, applicant's representative and Mr. Matt Knott, applicant were present.

Mr. Raco provided an overview of the request and noted that the subject parcel is located within the identified Preferred Growth Area for US 340 East as referenced in the *Envision Jefferson 2035 Comprehensive Plan* and shown as Future Residential or Commercial on the Future Land Use Guide.

Ms. Beaulieu, Zoning Administrator, stated that Staff found the request to be consistent with the *Envision Jefferson 2035 Comprehensive Plan*.

Mr. Stolipher moved to make a recommendation to the County Commission that the petition to rezone the property is consistent with the *Envision Jefferson 2035 Comprehensive Plan*.

Mr. Ray Bruning seconded the motion which carried unanimously.

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

a) Active Litigation:

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

Mr. Cochran stated there are no new reports on this case.

7. Planners Memo.

a) Ms. Brockman informed the Planning Commission members that Mr. Gary Phalen resigned from his position on the board and that the County Commission had advertised the vacant position.

Minutes  
Planning Commission  
June 13, 2017

- b) A roundtable discussion with the Surveyors will be scheduled sometime in July and Planning Commission members will be included on the meeting notification.
- c) JCHLC is working with staff on proposed language for Historic Resource Demolition and Adaptive Reuse. The proposed Amendments are scheduled to be heard at the July 11, 2017 Planning Commission meeting.
- d) Upcoming PC meeting

Next Regular Meeting: July 11, 2017

- 8. President's Report. None
- 9. Actionable Correspondence. None
- 10. Non-Actionable Correspondence. None

Mr. Fisher motioned to adjourn the meeting at 7:21 PM with no objections.

## ZTA16-02, Historic Preservation

### Article 2, Section 2.2

**Adaptive Reuse of Historic Structures** - refers to the process of reusing an old site or building for a purpose other than which it was built or designed for.

**Battlefield** – 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.~~

**Building Code** - The International Building Code, adopted by Jefferson County.

**Contributing Structure** - Buildings, structures, or sites that add to the historical association, architectural quality, or archaeological value of a property or district because (a) they were present during the period of significance and possess historical integrity reflecting their character at the time or potential for yielding historical information; or (b) their potential to qualify independently for the National Register of Historic Places.

**Historic Districts** - Generally a geographically definable area, urban or rural, possessing a significant concentration, linkage, or continuity of sites, buildings, structures, objects, or area, which are united by past events or aesthetically by plan or physical development. A district also may be comprised of individual resources which are separated geographically, but are thematically linked by association or history.

**Historic Landmark** - An object, site, building, structure or object designated as a "Landmark" either on a national, state or local register. (Also see definition of Landmark)

**Historic Landmarks Commission** – ~~Membership, terms of office, jurisdiction, and rules of procedure are established in the Bylaws of the Jefferson County Historic Landmarks Commission and Chapter 8, Article 26A of the West Virginia Code.~~ A five-member commission, appointed by the Jefferson County Commission that advises the County government and general public on matters regarding the preservation of County historic resources. Created by local ordinance and charged with enforcing provisions of local laws governing historic districts and buildings.

**Historic Resource** – A site, structure, area, or district possessing historic importance as defined by the U.S. Department of Interior, West Virginia State Historic Preservation Office, Jefferson County Historic Landmarks Commission, or other governmental agency, ~~which may include any~~ prehistoric or historic district, site, building, object, or other real or personal property of historical, architectural, or archaeological value. The properties may include, but are not limited to, monuments, memorials, Indian habitations, ceremonial sites, abandoned settlements, engineering works, artifacts or other objects with intrinsic historical or archaeological value, or any part thereof, relating to the history, government, and culture of the state.

**Historic Site** – Any lot, parcel, historic structure, or designated area which has been listed on the West Virginia or the National Register of Historic Places, ~~which may include the location of a~~ significant event, landscape feature, a prehistoric or historic occupation or activity, or a building or structure, whether standing, ruined or vanished, where the location itself possesses historical, cultural or archaeological value regardless of the value of any existing structure that may yield information on history or prehistory.

**Historic Survey** - A comprehensive survey involving the identification, research and documentation of buildings, sites and structures of any historical, cultural, archaeological or architectural importance.

**Historic Village** - Historic village shall be defined as settlements with at least 20 historic sites or structures as identified by the Jefferson County Historic Landmarks Commission.

**Landmark** - A designated building, district, site, or structure having historical, architectural, or archaeological significance, as defined by the U.S. Department of Interior, West Virginia State Historic Preservation Office, Jefferson County Historic Landmarks Commission, or other governmental agency.

**National Historic Landmark** - Authorized in 1935 and implemented in 1960, are nationally significant historic places designated by the Secretary of the Interior because they possess exceptional value or quality in illustrating or interpreting the heritage of the United States.

**National Register of Historic Places** - The National Register of Historic Places is the official list of culturally significant buildings, structures, objects, sites, and districts in the United States. Authorized by the National Historic Preservation Act of 1966. The list is maintained by the U.S. Department of Interior.

**Preservation** – The act or process of applying measures necessary to sustain the existing form, integrity, and materials of a historic property. Work, including preliminary measures to protect and stabilize the property, generally focuses upon the ongoing maintenance and repair of historic materials and features rather than extensive replacement and new construction. New exterior additions are not within the scope of this treatment; however, the limited and sensitive upgrading of mechanical, electrical, and plumbing systems and other code-required work to make properties functional is appropriate within a preservation project

**Protection Radius** – The area surrounding a historic site or historic resource not exceeding the boundary lines of the property. The size of the protection radius is governed by Section 4.6G of this Ordinance.

**Reconstruction** - The act or process of depicting, by means of new construction, the form, features, and detailing of a non-surviving site, landscape, building, structure, or object for the purpose of replicating its appearance at a specific period of time and in its historic location.

**Rehabilitation** - The act or process of returning a property to a state of utility through repair or alteration, which makes possible an efficient contemporary use while preserving those portions or features of the property that are significant to its historical, architectural, and cultural values.

**Restoration** - is defined as the act or process of accurately depicting the form, features, and character of a property as it appeared at a particular period of time by means of the removal of features from other periods in its history and reconstruction of missing features from the restoration period. The limited and sensitive upgrading of mechanical, electrical, and plumbing systems and other code-required work to make properties functional is appropriate within a restoration project.

**Secretary of the Interior's Standards for Rehabilitation** – The Standards (Department of Interior regulations, 36 CFR 67) pertain to historic buildings of all materials, construction types, sizes, and occupancy and encompass the exterior and the interior, related landscape features and the building's site and environment as well as attached, adjacent, or related new construction.

The Standards are to be applied to specific rehabilitation projects in a reasonable manner, taking into consideration economic and technical feasibility.

### Article 3: ADMINISTRATION AND ENFORCEMENT

#### Section 3.4 Boards and Commissions

##### (D) Historic Landmarks Commission

1. Powers, membership, terms of office, jurisdiction, and rules of procedure are established in Chapter 8 Article 26A of the West Virginia Code and Bylaws of Jefferson County Historic Landmarks Commission.
2. Review applications for Concept Plans, major subdivisions, and waivers from minimum standards as they relate to protection of identified Jefferson County Historic Resources.
3. Review requests for amendments to the County zoning map and may provide input to the Planning Commission.
4. Make recommendation to the County Commission concerning planning and Zoning issues as they relate to protection of identified Jefferson County Historic Resources.

#### Section 4.6 Distance Requirements

A. Industrial uses are subject to this subsection, unless otherwise specified in this Ordinance. Any uses (not including parking) or buildings subject to compliance with this Section shall be located at least 200 feet from:

1. Any lot in the Residential Growth District;
2. A dwelling, school, church or institution for human care not located on the same lot as the said use or buildings;
3. Any lot which is part of a recorded subdivision.

~~Any parcel, historic structure, or designated historic district which has been listed on the West Virginia or National Register of Historic Places.~~

B. Commercial uses are subject to this subsection, unless otherwise specified in this Ordinance. Adjacent uses (not including parking) or buildings subject to compliance with this Section shall be located at least 75 feet from:

1. Any lot in the Residential Growth District;
2. Any lot with a dwelling, school, church, or institution for human care not located on the same lot as said use or building.

~~3. Any parcel, historic structure, or designated historic district which has been listed on the West Virginia or National Register of Historic Places.~~

**G. Historic Resources in all zoning districts.** The level of protection to be afforded to a historic resource is a combination of the importance of the site and the context in which it is found.

The purpose of the protection radius is to preserve the historic character and allow future development that is consistent with the character of the historic site. Adaptive reuse of a historic structure is permitted conditionally as provided in Section 8.19 and Appendix C of this Ordinance.

**a. Category 1**

1. **National Register structures and properties and historic sites.** A 300-foot protection radius, as measured from the center of the site or structure(s), shall meet the open space protection level for Category I historic resources.
2. **Federally recognized Civil War Battlefields.** The area of maximum protection is the core battlefield with development being discouraged within that boundary area.
3. **Historic Districts including contributing structures.** Area of protection will be the boundaries established in the National Register nomination.

**b. Category II**

1. **National Register eligible structures and properties, Jefferson County Landmarks, contributing structures, and historic sites.** A 200-foot protection radius, as measured from the center of the site or structure(s), shall meet the open space protection level for Category II historic resources.

- c. Uses permitted within the Protection Radius.** Within any area located inside a designated protection radius, accessory structures as defined by this Ordinance may be constructed.

**Section 4.14: HISTORIC PRESERVATION**

The purpose of this section is to:

1. Promote the general welfare by protecting the integrity of historic resources in Jefferson County;
2. Establish a clear process by which proposed changes affecting historic resources are reviewed by the Jefferson County Historic Landmarks Commission and Jefferson County Planning Commission;
3. Mitigate negative effects of proposed land use changes on historic resources;
4. Encourage the continued use of historic resources and facilitate their appropriate reuse;
5. Tailor protective measures to those clearly delineated historic resources worthy of preservation;
6. Encourage the preservation of historic settings, rural landscapes, and battlefields;
7. Discourage the unnecessary demolition of historic resources; and
8. Minimize development in core battlefields.

This Ordinance encourages the preservation of buildings and sites in accordance with the Jefferson County Historic Landmarks Commission's Classification of Historic Resources, which

sets forth a classification system for Historic Sites, Historic Districts, Battlefields, and Structures in Jefferson County.

All historic resources in Jefferson County are classified by their Category of Importance, as determined by the Jefferson County Historic Landmarks Commission. All sites and structures were surveyed up through 1957 and are classified Category I through IV. The countywide inventory of historic resources is updated semi-annually. The list of inventoried resources and their assigned Category of Importance is available through the Historic Landmarks Commission's website and on the Office of Planning and Zoning website.

All inventoried historic resources are assigned a Category of Importance, used to determine the level of protection afforded that resource. The levels are as follows:

1. **Category I.** These are the most important historic resources in Jefferson County. This category includes; individually listed National Register structures and properties; Historic Districts including their contributing structures; Federally recognized Civil War Battlefields; and National Register eligible properties. These properties retain a high level of original condition and integrity.
2. **Category II.** These resources are classified as important. This category includes Jefferson County Landmarks, historic resources that may be National Register eligible, and other Civil War battle sites. Resources in this Category may have been altered or changed to such a degree that they no longer retain the same level of integrity as the original condition.
3. **Category III.** These resources have moderate importance.
4. **Category IV.** These are resources that are at least 50 years old, have little or no significance, but are listed on the Landmarks Commission's inventory.

through traffic and (2) will connect to principal and major arterial highways as directly as feasible considering access restrictions.<sup>5, 7, 23, 27</sup>

3. Restaurants where the primary mode of food distribution is by pick-up counter or drive in window and convenience stores shall be subject to the review and approval of the Board of Zoning Appeals as a Conditional Use in accordance with Section 6.3 of this Ordinance. This requirement shall not apply to a building located within a shopping center shown on an approved site plan.<sup>23, 26, 32</sup>
4. Proposed uses in this zone are exempt from the distance requirements in Sections 4.6A-B if part of a master planned community. This provision shall only apply to the internal use of land under the same ownership.<sup>7, 27</sup>

## Section 5.9 Reserved<sup>23</sup>

## Section 5.10 Village (V) District<sup>8, 23, 32</sup>

The purpose of this district is to allow recognized villages the ability to provide low level services within their boundaries. This district is generally intended to be served with public or private water and sewer facilities based on proposed lot sizes.

Uses that are permitted, conditional, and not permitted in this district shall be as indicated in Appendix C, Principal Permitted and Conditional Uses Table.<sup>27</sup>

### A. Principal Permitted Uses

#### 1. Residential Land Uses

- a. Refer to Appendix A for site development standards. If applicable, reduced building setbacks may be permitted in accordance with Article 9.

#### 2. Existing Structures

- a. Building setbacks, parking and drive aisle setbacks, distance requirements, and landscape buffers are not required when a proposed land use is to be located within an existing structure.
- b. When additional parking for an existing structure is required, a Site Plan shall be submitted. Setbacks shall be as required in Section 5.10A.2(a) with the exception that a four (4) foot screened buffer shall be required along the side and rear property lines. The screening may be either vegetative (existing or planted) or opaque fencing and may be placed anywhere within the four (4) foot buffer. At the time of the planting, vegetation shall be at least six (6) feet in height. No structures, vehicular parking, or stored material shall be permitted within the side and rear yard buffers.
- c. As a separate variance, in conformance with Section 6.2 of this Ordinance, the Board of Zoning Appeals shall have the discretion to waive a site plan based on the adequacy and number of existing parking spaces.

#### 3. New structures and expansions to existing structures

- a. All new non-residential structures and expansions to existing structures shall comply with site development standards as required by this Ordinance and process a Site Plan in accordance with the Subdivision Regulations.

### B. ~~and~~ Conditional Uses<sup>23</sup>

- ~~2. Uses that are permitted, conditional, and not permitted in this district shall be as indicated in Appendix C, Principal Permitted and Conditional Uses Table.~~<sup>27</sup>

1. Uses shown as conditional uses (CU) for this district in Appendix C, Principal Permitted and Conditional Uses Table shall be subject to the review and approval by the Board of Zoning Appeals in accordance with Section 6.3 of this Ordinance.<sup>27, 32</sup>

~~1.2.~~ Existing Structures

- a. Parking, Building Setbacks, Landscaping, and Signage shall be addressed as part of the Conditional Use Permit application. The reduced setback requirements cited in Section 5.10A.2(a) and (b) shall apply. In lieu of the standard variance process, any proposed deviation from the required parking, building setbacks, landscaping, and signage standards set forth in this Ordinance shall be included in the Conditional Use Permit application and reviewed for approval by the Board of Zoning Appeals.
- b. As a separate variance, in conformance with Section 6.2 of this Ordinance, the Board of Zoning Appeals shall have the discretion to waive a site plan based on the adequacy and number of existing parking spaces.

~~2.3.~~ New structures and expansions to existing structures

- a. All new non-residential structures and expansions to existing structures shall comply with site development standards as required by this Ordinance and process a Site Plan in accordance with the Subdivision Regulations.

~~B. Setbacks~~<sup>27</sup>

~~1. Setbacks, height, and other site development standards shall be as indicated in Appendix A, Residential Site Development Standards, and Appendix B, Non-Residential Site Development Standards, except as provided elsewhere in this Ordinance. The BZA may consider setback variances based on other structures existing in the neighborhood.~~<sup>23, 32</sup>

~~2. Existing Structures~~<sup>27</sup>

- a. ~~The side and rear yard setbacks are 6' for an existing structure to be used for a land use as provided in Appendix C this Article. No front yard setback, parking and drive aisle setback, distance requirement, or buffer is required for existing structures.~~
- b. ~~When additional parking for an existing structure is required, a Site Plan shall be submitted. Additional parking shall be located to the rear of the building. Setbacks shall be as required in Section 5.10B.2(a) with the exception that a four (4) foot screened buffer shall be required along the side and rear property lines. The screening may be either vegetative (existing or planted) or opaque fencing and may be placed anywhere within the four (4) foot buffer. No structures, vehicular parking, or stored materials shall be permitted within the side and rear yard buffers.~~

C. ~~Non-residential Commercial~~ uses shall not cause any odor, dust, smoke, vibration, noise, or electromagnetic interference, which can be detected at or beyond the property line., **in accordance with Article 8.**

D. Proposed uses in a recognized historic district shall obtain approval from the Historic Landmarks Commission and/or other appropriate state or federal agency prior to processing.<sup>23</sup>

E. There will be no outdoor storage of equipment, materials or other stock.

~~F.~~

~~Other Requirements~~<sup>23</sup>

1. ~~With the exception of setback requirements as specified in this section, Commercial and Light Industrial uses are subject to the requirements of Section 5.6E and the requirements for such standards in Article 8.~~

## Section 8.15 Accessory Dwelling Unit

property as the principal dwelling unit and cannot be bought or sold separately unless subdivided in accordance with the Subdivision Regulations and the Zoning Ordinance. The owner of the accessory dwelling unit is the owner of the principal dwelling unit. The property owner or immediate family member must occupy either the principal dwelling unit or the accessory dwelling unit. Such accessory dwelling unit is permitted only if it meets one of the following criteria:<sup>32</sup>

- 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:<sup>32</sup>
  - (a) Secondary in size to the principal dwelling unit, with a maximum size of 1,700 heated square feet, gross floor area;<sup>32</sup>
  - (b) For a detached accessory dwelling unit, must be located on a property of at least two acres;<sup>32</sup>
  - (c) Limited to use by a relative\*;<sup>32</sup>
  - (d) Sufficient parking available; and<sup>32</sup>
  - (e) Approved by the Health Department.<sup>32</sup>

*\*Related by blood, marriage, or adoption. Should relative no longer require the use of the **Accessory Dwelling Unit 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 accessory dwelling unit must be occupied by the property owner or immediate family member.*<sup>32</sup>

- B. An “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:<sup>32</sup>
  - (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;<sup>32</sup>
  - (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 ten acres in area;
  - (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.<sup>32</sup>

One of each type of Accessory Dwelling Unit as defined in this section 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 **in accordance with Section 6.5;** ~~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 6.1C; may be continued according to the requirements of Section 6.1D; and is subject to the notification requirements of Section 6.1B. 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.~~<sup>32</sup>

RVs are prohibited as Accessory Dwelling Units.<sup>32</sup>

## Section 8.16 Reserved<sup>32</sup>

## **Section 8.19 Adaptive Reuse of Historic Structures on the Historic Landmarks Commission Inventory**

### **A. Adaptive Reuse of Historic Structures**

The intent of this Section is to provide moderating regulations to permit a historic building to be used in a manner that protects neighbors while ensuring the protection of a historic resource that adds character to the community. The Historic Landmarks Commission shall make recommendations to the Office of Planning and Zoning on the suitability of the use for the building seeking adaptive reuse. The following are the requirements that must be met before permitting the moderation of the use standards:

1. **Historic Landmarks Commission Findings.** The Historic Landmarks Commission shall visit the property and review the proposed land development plan and use. The Commission's recommendation to the Zoning Administrator shall include the following findings:
  - a. The suitability of the proposed use is compatible with the historic structure; and
  - b. Any modifications to the building's façade is consistent and compatible with the building's architecture, style, and massing; and
  - c. That proposed parking and other activities are suitably located so as to preserve the character of the structure and its historical setting; and
  - d. That landscaping is consistent with the building and accessory uses, such as parking, and provides continued views of the historic structure while masking parking, air conditioning, or other elements from general view, which would distract from the building and its setting; and
  - e. If the building facade(s) was modified in the past in a manner out of character with the structure, that the facade(s) is restored to its historic condition.

- F. A sign not exceeding 25 square feet on a farm, advertising farm products primarily grown on the premises.
- G. Directional or informational signs of a public or quasi-public nature, such as those containing the meeting date of a community or civic club, or the advertising of a public event.
- H. A temporary real estate sign designating the zoning classification of the parcel, not exceeding 20 square feet and being located on the subject property for sale or lease.
- I. Building contractors', subdivision and/or professional person' temporary signs on buildings or land under construction but not to exceed 100 square feet.
- J. Election signs, provided that unsuccessful candidate shall remove signs within 15 days after a primary or special election. All signs shall be removed within 15 days after the general election. Signs shall not interfere with traffic visibility.
- K. All temporary signs shall be removed 30 days after the event, unless otherwise specified in Article 10.

#### Section 10.4 Signs Requiring a Zoning Permit

- A. Business and outdoor advertising signs in all zoning districts shall require a Zoning Certificate before placement on any property or building.<sup>2</sup>
- B. Any exterior sign or signs pertaining to the use conducted on the premises, and which is either integral with or attached to the principal building, shall have a sum total area of no more than two square feet for each foot in length of the frontage of the building. No sign shall be attached to the side of the building that faces an adjoining residence. ~~All signs placed on a property whose use is permitted through the approval of a Conditional Use Permit are subject to Section 10.4E.~~<sup>32</sup>
- C. Individual business or industrial establishments may erect a freestanding business sign, provided the lot frontage is at least 40 feet. The freestanding sign shall be located in such a manner that no part of the supporting structure is less than 25 feet from the street right-of-way, and that no part of the sign is closer than five feet to the right-of-way. The total area for any sign or signs on one supporting structure shall not exceed 300 square feet and the total height of the sign structure shall not exceed 35 feet. Businesses or industries having a frontage on more than one street may have an additional freestanding sign for each street frontage, provided that the total area for all freestanding signs does not exceed 600 square feet. Where the lot adjoins a residence and a freestanding sign is on the side of the business lot adjoining the residential lot, the sign shall not face the adjoining residence. ~~Signs whose use is permitted through the approval of a Conditional Use Permit are subject to Section 10.4E.~~ Structures which have more than one use shall be required to use a pylon sign. One is permitted on each street frontage.<sup>8, 32</sup>
- D. All outdoor advertising signs shall be spaced in such a manner that in an Industrial District there shall be a minimum of 300 feet between signs, and in the Rural District, where permitted, such signs shall be located in such a manner that there shall be 1,000 feet between signs. This shall be subject to Section 10.4E.
- E. All signs accessory to a land use subject to the approval of a Conditional Use Permit shall be proposed within the Conditional Use Permit application and assessed by the Board of Zoning Appeals at the required Public Hearing. Such signs shall be maintained at least 1,000 feet between signs. Consideration of the placement of such signs with less than 1,000 foot intervals shall be determined by the Commercial or Residential Uses adjacent to the subject site. Commercial uses adjacent to the subject site may allow spacing intervals of 300 feet. Any ~~variance deviation~~ from ~~theis~~ standards in Section 10.4 shall require consideration and

approval by the Board of Zoning Appeals as part of the Conditional Use Permit application in accordance with Section 6.3.<sup>2, 17, 21, 23, 32</sup>

- F. No outdoor advertising sign shall be placed closer than 300 feet to an intersection on a dual or proposed dual highway or within 100 feet of any other intersection; provided, however, that such signs may be affixed to or located adjacent to a building at such intersections in such a manner as not to materially cause any greater obstruction of vision than caused by the building itself. No business sign shall be so located to obstruct the vision of traffic using entrance ways, driveways, or any public road intersection.
- G. All outdoor advertising, excluding billboards subject to Section 10.4H, shall comply with front yard setback provisions in the districts in which they are permitted.
- H. Billboards
  - 1. No billboard shall be closer to any public highway right-of-way than 300 feet.
  - 2. Placement of a billboard must be in a location that is within 800 feet of an existing business.
  - 3. There shall be a minimum of 1000 feet between billboards.
  - 4. A billboard shall be no closer than 500 feet from a church, school, or cemetery.

### **Section 10.5 Zoning Certificate<sup>2</sup>**

All Zoning Certificate applications for signs may be approved by the Zoning Administrator if in conformance with the regulations.<sup>17, 21, 23</sup>

**APPENDIX C: PRINCIPAL PERMITTED AND CONDITIONAL USES TABLE<sup>23, 32</sup>**

Land Use	NC	GC	HC	LI	MI	PND <sup>1</sup>	OC	R	RG	RLIC	IC	V	Additional Standards
<b>Residential Uses</b>													
Accessory Agricultural Dwelling Unit	P	P	P	P	P	P	P	P	P	P	P	P	Sec. 8.15
<u>Adaptive Reuse of Historic Structures</u>	<u>CU</u>	<u>CU</u>	<u>CU</u>	<u>CU</u>	<u>CU</u>	<u>CU</u>	<u>CU</u>	<u>CU</u>	<u>CU</u>	<u>CU</u>	<u>CU</u>	<u>CU</u>	<u>Sec. 8.19</u>
Dwelling, Single Family	CU	NP	NP	NP	NP	P	NP	P	P	P	NP	P	
Dwelling, Single Family, Small Lot	CU	NP	NP	NP	NP	P	NP	NP	P	P	NP	NP	
Dwelling, Two Family	CU	NP	NP	NP	NP	P	NP	P	P	P	NP	P	
Dwelling, Duplex	CU	NP	NP	NP	NP	P	NP	NP	P	P	NP	P	
Dwelling, Townhouse	CU	NP	NP	NP	NP	P	P	NP	P	P	NP	<u>CU</u> <u>NP</u>	
Dwelling, Multi-Family	CU	NP	NP	NP	NP	P	P	NP	P	P	NP	<u>CU</u> <u>NP</u>	
Day Care Center, Small	P	NP	NP	NP	NP	P	NP	P	P	P	P	P	
In-Law Suite	NP	NP	NP	NP	NP	P	NP	P	P	P	NP	P	Sec. 8.15
Mixed Use Building	P	NP	NP	NP	NP	P	P	NP	CU	P	NP	P	
Mobile Home Park	NP	NP	NP	NP	NP	NP	NP	NP	P	P	NP	NP	
Model Homes/Sales Office	P	CU	NP	NP	NP	P	NP	P	P	P	NP	NP	Sec. 8.10
<b>Home Uses</b>													
Home Occupation, Level 1	P	NP	NP	NP	NP	P	P	P	P	P	P	P	Art. 4A
Home Occupation, Level 2	P	NP	NP	NP	NP	P	P	P	P	P	P	P	Art. 4A
Cottage Industry	P	NP	NP	NP	NP	P	NP	P	P	P	P	P	Art. 4A
<b>Institutional Uses</b>													
Airport	NP	NP	NP	P	P	NP	NP	CU	NP	CU	CU	NP	
Airfield, Private/Helipad	NP	NP	NP	NP	NP	NP	NP	CU	NP	CU	CU	NP	
Church	P	P	P	P	CU	P	P	P	P	P	NP	P	
Convention Center	NP	P	P	P	CU	P	P	CU	CU	P	CU	NP	
Cultural Facility <sup>29</sup>	P	P	P	P	CU	P	P	P	P	P	P	P	
Day Care Center, Large	P	P	P	P	CU	P	P	CU	P	P	P	CU	
Electric Vehicle Charging Station	P	P	P	P	P	P	P	CU	CU	P	P	CU	
Elementary or Secondary School	P	P	CU	CU	NP	P	P	P	P	P	NP	CU	
Essential Utility Equipment	P	P	P	P	P	P	P	P	P	P	P	P	Sec. 4.7
Group Residential Facility	P	P	P	NP	NP	P	CU	P	P	P	NP	P	
Group Residential Home	P	P	P	NP	NP	P	CU	P	P	P	NP	P	
Heliport	NP	CU	CU	P	P	CU	CU	NP	NP	CU	CU	NP	
Hospital	NP	P	P	P	CU	P	P	P	P	P	NP	NP	
Nature Center and Preserve	NP	NP	NP	NP	NP	P	NP	P	CU	P	NP	P	
Nursing or Retirement Home	CU	P	P	P	NP	P	P	CU	P	P	NP	CU	
Park	P	P	P	P	NP	P	P	P	P	P	NP	P	
Performing Arts Theater	P	P	P	P	P	P	P	CU	CU	P	P	CU	
Preschool	P	P	CU	CU	CU	P	P	P	P	P	NP	CU	
Public Safety Facility	P	P	P	P	P	P	P	P	P	P	P	P	
Publicly Owned Facility	P	P	P	P	P	P	P	P	P	P	P	CU	
Recycling Drop-Off Center	CU	P	P	P	P	P	P	NP	NP	P	P	NP	

Land Use	NC	GC	HC	LI	MI	PND <sup>1</sup>	OC	R	RG	RLIC	IC	V	Additional Standards
<b>Institutional Uses Continued</b>													
Residential Care Home	P	P	P	NP	NP	P	CU	P	P	P	NP	P	
School, College or University	NP	P	P	P	NP	P	P	CU	CU	P	NP	NP	
School, Vocational or Professional	NP	P	P	P	NP	P	P	CU	CU	P	P	NP	
Vocational and Training Facility for Adults	P	P	P	P	P	P	P	P	P	P	NP	NP	
<b>Industrial</b>													Sec. 8.9
Heavy Equipment Repair	NP	NP	CU	CU	P	NP	NP	NP	NP	NP	P	NP	
Heavy Industrial Uses	NP	NP	NP	NP	P	NP	NP	NP	NP	NP	P	NP	Sec. 8.9
Light Industrial Uses	NP	NP	NP	P	P	NP	NP	NP	** NP	P	P	NP	Sec. 8.9
Manufacturing, Heavy	NP	NP	NP	CU	P	NP	NP	NP	NP	P	P	NP	
Manufacturing, Limited	NP	P	P	P	P	PC	NP	NP	NP	P	P	NP	
Printing and Publishing	NP	P	P	P	P	P	P	NP	NP	P	P	NP	
Salvage Yards	NP	NP	NP	NP	CU <sup>2</sup>	NP	NP	NP	NP	NP	CU <sup>2</sup>	NP	Sec. 4.4L
Shooting Range, Indoor	NP	CU	CU	P	P	NP	NP	CU	NP	CU	P	NP	
Shooting Range, Outdoor	NP	NP	NP	CU	CU	NP	NP	CU	NP	NP	CU	NP	
Slaughterhouses, Stockyards	NP	NP	NP	NP	CU	NP	NP	CU	NP	NP	CU	NP	
Transportation Terminal	NP	P	P	P	P	P	P	NP	NP	CU	P	NP	
Vehicle Storage	NP	NP	NP	P	P	NP	NP	NP	NP	NP	P	NP	
Warehousing and Distribution, General	NP	NP	NP	CU	P	NP	NP	NP	NP	CU	P	NP	
Warehousing and Distribution, Limited	NP	P	P	P	P	CU	P	NP	NP	P	P	NP	
<b>Industrial Manufacturing &amp; Processing</b>													Sec. 8.9
Acid or heavy chemical manufacturer, processing or storage	NP	NP	NP	NP	CU	NP	NP	NP	NP	NP	CU	NP	
Bituminous concrete mixing and recycling plants	NP	NP	NP	NP	CU	NP	NP	NP	NP	NP	CU	NP	
Cement or Lime Manufacture	NP	NP	NP	NP	CU	NP	NP	NP	NP	NP	CU	NP	
Commercial Sawmills	NP	NP	NP	NP	CU	NP	NP	NP	NP	NP	CU	NP	
Concrete and ceramic products manufacture, including ready mixed concrete plants	NP	NP	NP	NP	CU	NP	NP	NP	NP	NP	CU	NP	
Explosive manufacture or storage	NP	NP	NP	NP	CU	NP	NP	NP	NP	NP	CU	NP	
Foundries and/or casting facilities	NP	NP	NP	NP	CU	NP	NP	NP	NP	NP	CU	NP	
Jails and Prisons	NP	NP	NP	NP	CU	NP	NP	NP	NP	NP	CU	NP	Sec. 8.7
Mineral extraction, mineral processing	NP	NP	NP	NP	CU	NP	NP	NP	NP	NP	CU	NP	
Petroleum products refining or storage	NP	NP	NP	NP	CU	NP	NP	NP	NP	NP	CU	NP	Sec. 8.11
<b>Adult Uses</b>													
Adult Uses	NP	NP	NP	NP	NP	NP	NP	NP	NP	NP	P	NP	Sec. 4.4K, Sec. 8.1
<b>Recreational Uses</b>													
Hunting, Shooting, Archery and Fishing Clubs, public or private	NP	NP	NP	CU	CU	NP	NP	P	NP	NP	NP	NP	Sec. 8.8
<b>Commercial Uses</b>													Sec. 8.9
<u>Adaptive Reuse of Historic Structures</u>	<u>CU</u>	<u>CU</u>	<u>CU</u>	<u>CU</u>	<u>CU</u>	<u>CU</u>	<u>CU</u>	<u>CU</u>	<u>CU</u>	<u>CU</u>	<u>CU</u>	<u>CU</u>	<u>Sec. 8.19</u>
Antique Shop	P	P	P	P	NP	P	NP	CU	CU	P	P	<u>P</u> <u>CU</u>	

Land Use	NC	GC	HC	LI	MI	PND <sup>1</sup>	OC	R	RG	RLIC	IC	V	Additional Standards
<b>Commercial Uses Continued</b>													<b>Sec. 8.9</b>
Appliance Sales	NP	P	P	P	CU	P	NP	CU	CU	P	P	NP	
Art Gallery or Artist Studio	P	P	P	P	NP	P	P	CU	CU	P	P	<del>P</del> CU	
ATM	P	P	P	P	NP	P	P	CU	CU	P	P	CU	
Automobile repair, sales and service	NP	P	P	P	P	P	NP	CU	CU	P	P	NP	
Automobile parts, supplies and tire stores	NP	P	P	P	P	P	NP	CU	CU	P	P	NP	
Automobile, light truck and light trailer rentals, indoor	P	P	P	P	P	P	NP	CU	CU	P	P	NP	
Automobile, light truck and light trailer rentals, outdoor	NP	P	P	P	P	P	NP	CU	CU	P	P	NP	
Bail Bond Services	NP	P	P	P	CU	NP	NP	CU	CU	CU	P	NP	
Bank	P	P	P	P	CU	P	P	CU	CU	P	P	<del>P</del> CU	
Bank with Drive-Through Facility	CU	P	P	P	CU	P	P	CU	CU	P	P	NP	
Bar	P	P	P	P	NP	P	P	NP	NP	P	P	NP	
Barber/Beauty Shop, Limited	P	P	P	P	NP	P	P	CU	CU	P	P	<del>P</del> CU	
Bed and Breakfast	P	NP	NP	NP	NP	NP	NP	P	CU	NP	NP	P	Sec. 8.3
Brewpub	P	P	P	P	NP	P	P	CU	CU	P	P	CU	Sec. 8.5
Business Equipment Sales and Service	CU	P	P	P	CU	P	P	CU	CU	P	P	NP	
Building Maintenance Services	CU	P	P	P	P	P	P	CU	CU	P	P	NP	
Building Materials and Supplies	NP	P	P	P	P	P	NP	CU	CU	P	P	NP	
Campground <sup>31</sup>	CU	P	NP	NP	NP	P	NP	P	CU	P	P	NP	Sec. 8.17
Car Wash	NP	P	P	P	CU	P	P	CU	CU	P	P	NP	
Commercial Blood Plasma Center	NP	P	P	P	NP	CU	CU	CU	CU	CU	P	NP	
Commercial Uses	NP	NP	NP	NP	NP	NP	NP	NP	**	P	P	NP	Sec. 8.9
Contractor with No Outdoor Storage	P	P	P	P	P	P	P	CU	CU	P	P	NP	
Contractor with Outdoor Storage	NP	P	P	P	P	P	NP	CU	CU	P	P	NP	
Convenience Store, Limited	P	P	P	P	CU	P	P	CU	CU	P	P	CU	
Convenience Store	CU	P	P	P	CU	P	NP	CU	CU	PC	P	CU	Sec. 5.8C (RLIC only)
Country Inn	P	P	P	P	NP	P	P	CU	CU	P	P	P	
Custom Manufacturing	P	P	P	P	P	P	P	CU	CU	P	P	CU	
Dry cleaning and Laundry Services	P	P	P	P	CU	P	P	CU	CU	P	P	CU	
Dry cleaning and Laundry Facility	NP	P	P	P	P	P	P	CU	CU	P	P	NP	
Equipment Rental, Sales, or Service	NP	P	P	P	P	P	NP	CU	CU	P	P	NP	
Exterminating Services	NP	P	P	P	P	P	P	CU	CU	P	P	NP	
Florist	P	P	P	P	CU	P	P	CU	CU	P	P	<del>P</del> CU	
Food Preparation	P	P	P	P	CU	P	P	CU	CU	P	P	NP	
Hotel/Motel	NP	P	P	P	NP	P	P	CU	CU	P	P	NP	
Gambling Facilities	NP	NP	NP	NP	CU	NP	NP	NP	NP	NP	CU	NP	Sec. 4.4G
Gas Station, Limited	P	P	P	P	CU	P	P	CU	CU	P	P	NP	
Gas Station	NP	P	P	P	CU	P	P	CU	CU	P	P	NP	
Gas Station, Large	NP	CU	P	P	CU	CU	CU	CU	CU	P	P	NP	
Golf Course	NP	P	P	P	NP	P	P	CU	CU	P	P	NP	
Grocery Store	P	P	P	P	CU	P	NP	CU	CU	P	P	NP	
Horse Racing Facility	NP	NP	NP	P	NP	NP	NP	CU	CU	P	P	NP	
Kennel	NP	P	P	P	CU	P	P	P	CU	P	P	NP	Sec. 8.4
Medical/Dental/Optical Office, Small	P	P	P	P	CU	P	P	CU	CU	P	P	P	

Land Use	NC	GC	HC	LI	MI	PND <sup>1</sup>	OC	R	RG	RLIC	IC	V	Additional Standards
<b>Commercial Uses Continued</b>													<b>Sec. 8.9</b>
Medical/Dental/Optical Office	NP	P	P	P	CU	P	P	CU	CU	P	P	NP	
Mobile Home, Boat and Trailer Sales	NP	P	P	P	CU	P	NP	CU	CU	CU	P	NP	
Movie Theater	NP	P	P	P	NP	P	NP	CU	CU	P	P	NP	
Nightclub	NP	P	P	P	NP	P	NP	CU	CU	P	P	NP	
Non Profit Commercial Uses	P	P	P	P	NP	P	P	CU	CU	P	P	NP	
Non-Profit Community Centers	P	P	P	P	CU	P	CU	P	CU	P	P	CU	
Parking, Commercial Offsite Accessory	NP	P	P	P	P	P	P	CU	CU	P	P	NP	
Pawn Shop Services	NP	P	P	P	NP	P	NP	CU	CU	P	P	NP	
Personal Services	P	P	P	P	CU	P	P	CU	CU	P	P	CU	
Professional Office, Small	P	P	P	P	CU	P	P	CU	CU	P	P	P	
Professional Office	P	P	P	P	CU	P	P	CU	CU	P	P	CU	
Restaurant, Fast Food, Limited	P	P	P	P	CU	P	P	CU	CU	P	P	CU	
Restaurant, Fast Food	CU	P	P	P	CU	P	P	CU	CU	CU	P	NP	Sec. 5.8C (RLIC only)
Restaurant, Fast Food, Drive-Through	NP	P	P	P	CU	CU	P	CU	CU	CU	P	NP	Sec. 5.8C (RLIC only)
Restaurant, Limited	P	P	P	P	CU	P	P	CU	CU	P	P	CU	
Restaurant	P	P	P	P	CU	P	P	CU	CU	P	P	CU	
Retail Sales Limited	P	P	P	P	NP	P	P	CU	CU	P	P	NP	
Retail Sales and Services, General	NP	P	P	P	NP	P	NP	CU	CU	P	P	NP	
Retail Store, Large	NP	CU	P	CU	NP	CU	NP	CU	CU	CU	CU	NP	
Shipping and Mailing Services	P	P	P	P	CU	P	P	CU	CU	P	P	NP	
Storage, Commercial	NP	P	P	P	CU	P	NP	CU	CU	P	P	NP	
Veterinary Services	P	P	P	P	CU	P	P	P	CU	P	P	NP	
Wireless Telecommunications Facilities	P	P	P	P	P	P	P	P	P	P	P	P	Art. 4B
<b>Agricultural Uses*</b>													
Agricultural Uses as defined in Article 2	P	P	P	P	P	P	P	P	P	P	P	P	
Agricultural Repair Center	NP	P	P	P	P	P	P	P	CU	P	P	NP	
Agricultural Tourism	P	P	P	P	P	P	P	P	P	P	P	P	
Farm Brewery	P	P	P	P	P	P	P	P	P	P	P	P	Sec. 8.5
Farm Winery or Distillery	P	P	P	P	P	P	P	P	P	P	P	P	Sec. 8.5
Farm Market	P	P	P	P	P	P	P	P	P	P	P	P	Sec. 8.6
Farm Vacation Enterprise	P	P	P	P	P	P	P	P	P	P	P	P	
Farmer's Market	P	P	P	NP	NP	P	NP	P	CU	P	NP	CU	Sec. 8.6
Feed and/or Farm Supply Center	CU	P	P	P	P	P	P	P	CU	P	P	NP	
Horticultural Nurseries and Commercial Greenhouses	P	P	P	P	P	P	P	P	CU	P	P	NP	
Landscaping Business	P	P	P	P	P	P	P	P	CU	P	P	NP	
Rental of Existing Farm Building for Commercial Storage Structure must have existed for 5 years	NP	P	P	P	P	P	P	P	CU	P	P	NP	
<b>Accessory Uses</b>													
Accessory Uses	P	P	P	P	P	P	P	P	P	P	P	P	

NC Neighborhood Commercial  
GC General Commercial  
HC Highway Commercial  
LI Light Industrial  
MI Major Industrial

OC Office / Commercial Mixed-Use  
R Rural  
RG Residential Growth District  
RLIC Residential-Light Industrial-Commercial District  
IC Industrial-Commercial District

PND Planned Neighborhood Development

V Village District

P Permitted Uses

NP Not Permitted Uses

CU Conditional Uses (subject to requirements of district and/or other requirements of this Ordinance)

\*\* Accessory Use to a planned residential community, if permitted pursuant to Section 5.4 and processed as a CU

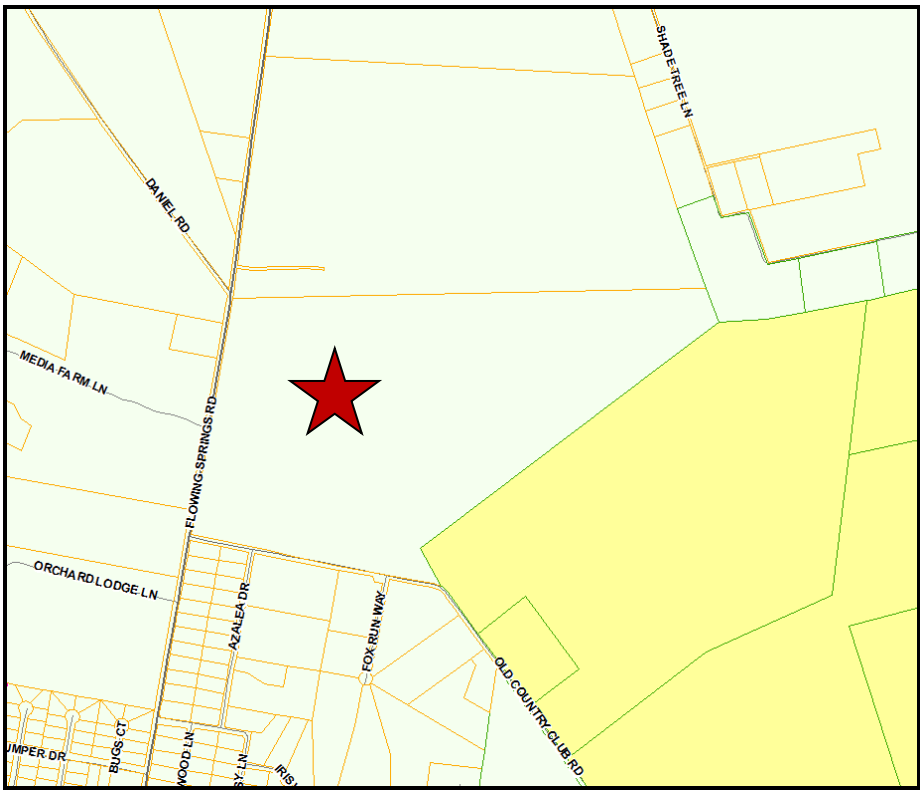
<sup>1</sup> The Planning Commission may amend the permitted uses for a development in the PND District per Article 5.

<sup>2</sup> Approval process is per the Salvage Yard Ordinance.

Staff Report  
 Jefferson County Planning Commission Meeting  
 July 11, 2017

**Aspen Greens Phase IIB  
 (CUP File #Z02-06; CIS PC File #07-15)**

Item #5: PCV17-01: Request by Roderick Planes, LLC, owner/developer, for a variance to extend the time to hold a Final Plat public hearing for the next phase of Aspen Greens Subdivision, to be known as Phase IIB. The applicant is requesting a 36-month extension of time from June 9, 2017 to June 10, 2020.

APPLICANT:	Roderick Planes, LLC
OWNER:	Same as above
DEVELOPER:	Same as above
SURVEYOR/ENGINEER:	Gates Associated, Inc.
PROPERTY LOCATION:	The property is located northeast of the intersection of Old Country Club Road and Flowing Springs Road.
LEGAL DESCRIPTION:	District: Charles Town (02); Map: 4; Parcel: 19 
SURROUNDING PROPERTIES:	North: R                      South: R and RG East: RG                      West: R
LOT AREA:	110.71 Acres
APPROVED ACTIVITY:	203 Single Family Lots

Staff Report  
 Jefferson County Planning Commission Meeting  
 July 11, 2017

APPROVALS:	
Conditional Use Permit (File #Z02-06)	Submitted: 08/08/02 Site Assessment Passed: 10/02/02 Neighborhood Compatibility Mtgs. Scheduled: 10/30/02 & 05/10/06 Public Hearing Scheduled: 06/15/06; BZA Action: Approved CUP Official Issuance Signature: 12/20/07 Expiration Date: 06/20/09; BZA Extended to: 12/20/10 & 07/01/2012 Approval and Recordation of the Phase 1A Final Plat deems this CUP to be “commenced”
Community Impact Statement (File #07-15)	Submitted: 06/15/07; Staff Review Meeting: 07/06/07 Co. Planner Approval: 02/2008; Co. Engineer Approval: 01/14/08 PC Approval: 03/25/08; Expires on: 07/06/09 PC Extended to: 12/31/09; 12/20/10; 7/01/2012; 4/10/15; 12/08/2015 Approval and Recordation of the Phase IIA Final Plat deems the CIS to remain valid; provided that the Public Hearing for the next Phase of the project is held on or before 6/9/17 (two years from Phase IIA approval)
Preliminary Plat	Approved: 04/10/2012 (Phase IA); 03/16/15 (Phase IIA)
Final Plat	Phase 1A Final Plat (PC File # 07-15) approved: 6/12/12 (recorded 9/6/12) Phase IIA Final Plat (PC File #14-01) approved: 06/09/15 (recorded 8/31/15)
Variance History	05/26/09 - PC approved variance to extend the CIS file expiration date from 07/06/09 to 12/31/09. 06/18/09 - BZA approved a CUP extension request from 06/20/09 to 12/20/2010. 08/11/09 – PC approved variance to extend the CIS file expiration date from 12/31/09 to 12/20/10. 11/09/10 – PC approved variance to extend the CIS file expiration date from 12/20/10 to 07/01/12. 11/18/10 – BZA approved an extension of the CUP to 7/01/12. 06/10/14 – PC approved variance to extend the CIS file expiration date to 4/10/15. 03/10/15 – PC approved variance to extend the CIS file expiration date (the time to hold a FP PH for the next phase) from 4/10/15to 12/08/15.

The Development:

Aspen Greens Subdivision is located northeast of the intersection of Old Country Club Road and Flowing Springs Road. Since this Subdivision began processing before the 2008 Subdivision Regulations were adopted, the Subdivision is being reviewed under the 1979 Subdivision Regulations. The applicant has had the first two phases of Aspen Greens Subdivision, known as Phase IA (20 lots)

Staff Report  
Jefferson County Planning Commission Meeting  
July 11, 2017

and Phase IIA (26 lots) approved, recorded and bonded. The CUP and CIS are approved for a build-out of 203 total lots. The next phase (Phase IIB) is required to have a Public Hearing held by June 9, 2017.

The Request

The applicant is requesting a 36-month extension, from June 9, 2017 to June 10, 2020, to advance through the next Final Plat public hearing for this development. Per Section 6.3 of the 1979 Jefferson County Subdivision Ordinance, a Final Plat public hearing is required to be processed within 24 months of the previous phase. The applicants last Final Plat approval (Phase IIA) was at the June 9, 2015 Planning Commission meeting. As such, the next phase Final Plat was required to have a Public Hearing before the Planning Commission by June 9, 2017. The application for this variance was submitted prior to this expiration date (on 6/8/17) and was deemed to meet the requirement to be placed on the 7/11/17 agenda for Planning Commission consideration.

It should be noted that this project was not impacted by changes in the state law in 2010, often referred to as Senate Bill 595, which provided automatic extensions of time for certain projects because it did not meet the definition of “valid” and “outstanding” as of January 1, 2010. As a result, this project must process a variance in order to be provided with an extension of time. Projects which do qualify for the extension currently have a completion date of July 1, 2020 to complete their next phase.

Variance Requirements

The variance process in the 1979 Subdivision Ordinance is different from the waiver process outlined in the 2008 Subdivision Regulations. In order to grant a variance the following four criteria must be met. The comments below are Staff’s comments related to the criteria:

***The request is not contrary to the public interest.***

The request for a variance of 36 months to extend the time limit to submit a Final Plat is not contrary to the public interest. The applicant intends to continue the development as approved by the Planning Commission; no change has occurred to the site which would negatively impact the public interest. While the full 36 month extension may not be necessary, this is comparable to the Policy Related to Vested Rights that the County Commission recently approved extending all projects that meet the requirements of SB595 (2010) to July 1, 2020.

***A literal enforcement of this Ordinance will result in unnecessary hardship.***

A literal enforcement of the ordinance would require the applicant to start the project anew if a Final Plat is not scheduled for a public hearing by June 9, 2017. As outlined in the applicant’s submittal and above, Roderick Planes, LLC has completed and recorded the Final Plats for Phase IA and Phase IIA, both of which are bonded and are under construction.

If the appellant is denied an extension, the process would have to start over under the new Subdivision Regulations. Beginning the process over would not likely change the layout of the project from the currently approved preliminary layout and the Final Plats that have been recorded, but may require reengineering to meet current standards.

***The request is not the result of a self-imposed hardship.***

The request is not a self-imposed hardship. As noted above the applicant continues to make a good faith effort towards approval of a Preliminary Plat and Final Plat for the next phase of the development. The applicants continued effort in processing approvals shows a vested interest to

Staff Report  
Jefferson County Planning Commission Meeting  
July 11, 2017

proceed forward. A project of this size and scope requires significant, work and communication between the applicant and various departments and agencies.

***The spirit of this Ordinance will be observed and substantial justice done.***

Since the variance is only for a time extension and not a variance of the site layout, the spirit of the ordinance will be observed. Staff finds substantial justice would be done in granting a time extension.

Recommendation

Staff recommends granting the variance for 36 months (to June 10, 2020). As noted in the applicant's request and shown by action, the applicant is creating a high quality development and has worked with the Jefferson County Public Service District (JCPSD) to oversize the sewer line in anticipation of future connections. The new sewer line will result in a reduction of the overall maintenance for the JCPSD. The next step for this project would be a preliminary plat with construction documents for Phase IIB. The review of the Preliminary Plat requires a number of months; however, once the Final Plat is submitted under the old Subdivision Regulations, approval is required within 60 days.

This variance is for a time extension and not a variance to the site layout. Providing an extension of 36 months to the developer would provide for the continuation of this development in accordance with earlier steps and phases approved by the Planning Commission.

JEFFERSON COUNTY PLANNING COMMISSION

VARIANCE REQUEST

We request a variance from the provisions of the Jefferson County subdivision and/or Salvage Yard Ordinance.

Property Owner(s): Roderick Planes, LLC

Address: 5509 Mt. Zion Road; Box 777

Frederick, Maryland 21705

Phone Number: 1-301-663-6060

Location of Property: Northeasterly of the intersection of Old Country Club Road with Flowing Springs Road. See Attached USGS Map.

Lot Size: 0.41 Average; 203 Lots on 110 Acres

Deed Book Reference: Deed Book Number 952, Page Number 565

Tax Map Reference: District 2 - Charles Town Map 4, Parcel 19

Zoning District: Agricultural - (Was Residential on proposed draft)

Section of Ordinance: Subdivision Ordinance; Art. 6; Sect. 6.3

Briefly describe (in your own words) by specific reference to a sketch (in accordance with the following paragraph) of the lot the nature of your variance request.

*This request is for a Completion Deadline extension to June 10, 2020 for a 3rd Project Phase IIB. Approval is needed to overcome delays encountered in dealing with utility provider schedules pursuing line pole movement, safer slower speed limit postings, maintaining sewer service during possible transitions being considered, revised WVDOH dedication procedures, WVDEP e-submission limitation requirements with followup for NPDES Permit new phase amendments, and ongoing wet spring weather construction impacts of ongoing work on currently approved Phase IIA. All are non-sketch able procedural matters requiring the developer to work with provided intermitant cooperation opportunities. Phase IA work completion has allowed major JCPC bonding releases, now showing substantial appealing finishing work, and the first home construction by Dan Ryan Builders is underway. Given the Two Phases of buildable lots the developer has already submitted, now awaiting build-out and sale, still subject to sufficient recovery of local new home economy, this request also includes recognition of the extensions already made by The County Commission for local projects. The next phase time limits applied were created long ago when work inclusions by county ordinances were few. They do not work with slow economies. The existence of these limits prevent a developer's ability to deal with project demands and are especially counterproductive to this body's goal to create bond releaseable quality construction work.*

Sketch on a separate 8-1/2" x 11" sheet of paper the shape and location of the 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. Please provide a vicinity map of the area.

NOTE: Request is not identifiable on a sketch. Vicinity USGS Map Attached.

JEFFERSON COUNTY PLANNING, ZONING & ENGINEERING  
RECEIVED  
JUN 08 2017

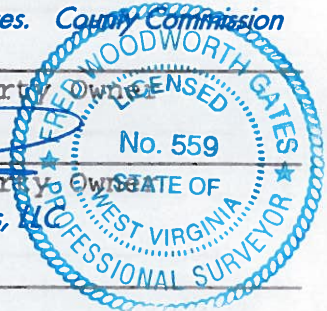
Please note variances to the Subdivision Ordinance must comply with Article 17 of the Ordinance; and, variances from the Salvage Yard Ordinance must comply with Article 6 of the Ordinance. To justify your variance request, please address the following items:

1. The request is not contrary to the public interest. It is contrary to the public interest to not allow time for subdivision construction, build-out, and sale consistent with today's market forces. This developer has made major improvements in road safety, site area water runoff processing designs, a 0.75 mile gravity sewer extension installation for JCPSD, and quality phase work to date which all benefit local quality growth.
2. A literal enforcement of this Ordinance will result in unnecessary hardship Denying this extension request would harm ASPEN GREENS' opportunity to achieve its business need of overcoming the initial upfront investment costs invested in optimal infrastructure to date, often cited as the primary goal of all county planning expenditures. Having met all hurdles to date since the 2001 project start, your support is needed for a rational outcome of this project.
3. The request is not the result of a self-imposed hardship. These issues are beyond developer control. Low local economic recovery, utility assignment and execution of work, newly required WVDOH internal approval paths of reviews, NPDES e-centric application requirement methods, wet yearly weather patterns, and JCPSD status, have all required months of polite scheduling and follow-ups for any action.
4. The spirit of this Ordinance will be observed and substantial justice done. Support for projects duly vetted and approved, and working in good faith with substantial investments already made must be the spirit cornerstone for all intended Ordinance goals. This developer is completing the work approved and bonded in good faith with a great deal of personal interest and willingness in evaluating the merits of plan details before coming to the County for releases. County Commission has acknowledged the need for project extensions.  
It is in the ordinance spirit that this extension is sought.

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

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

As agent for Roderick Planes, \_\_\_\_\_



For official use only: Amount of fees paid \_\_\_\_\_

Date of meeting/public hearing \_\_\_\_\_

Official/Administrative body \_\_\_\_\_

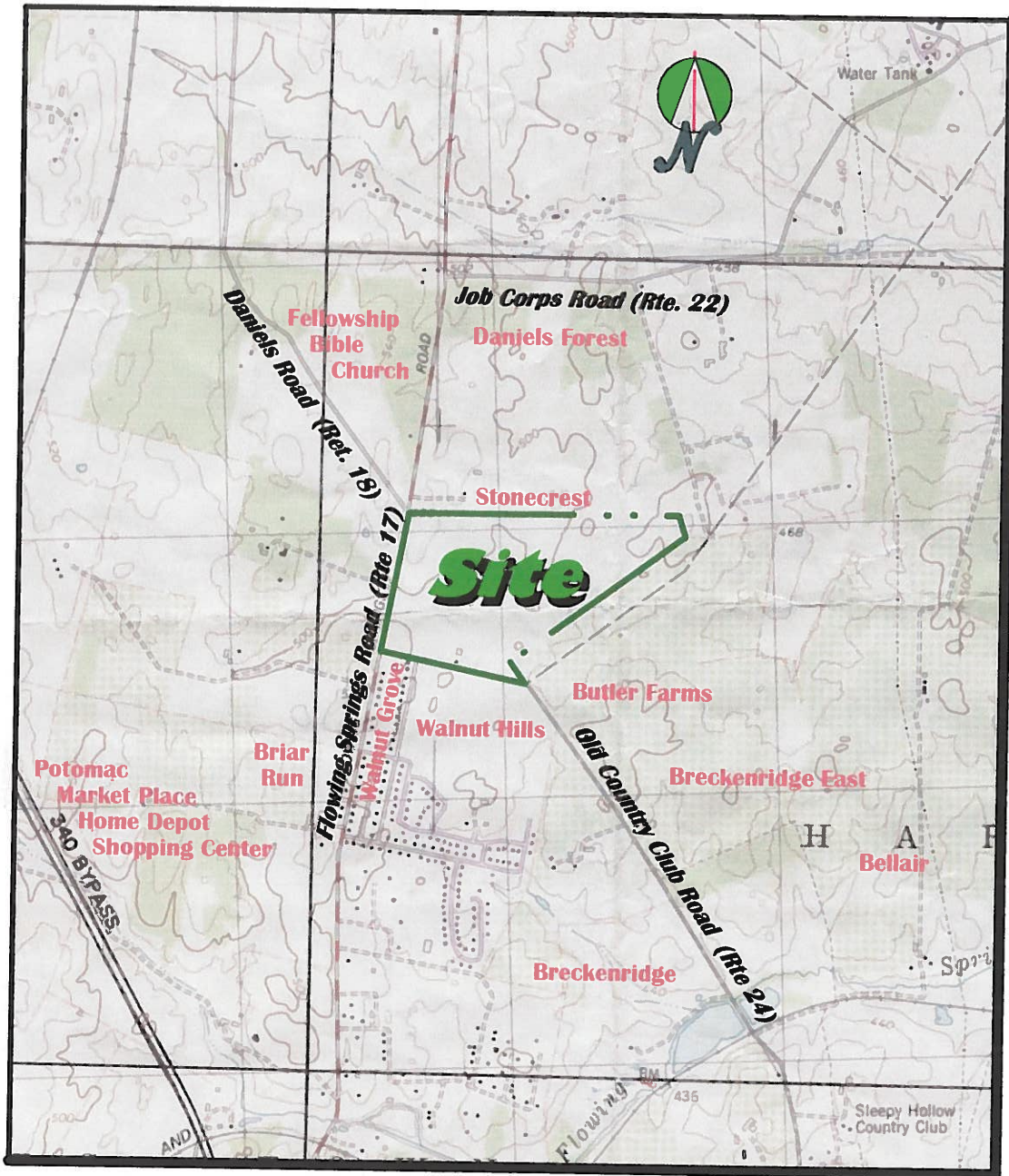
Posting requirements \_\_\_\_\_

Advertising dates \_\_\_\_\_

Official Signature and Seal \_\_\_\_\_

Effective 6/72 Subdivision Ordinance - 8/94 Salvage Yard Ordinance

# ASPEN GREENS Site Location



**USGS Charles Town Quad Map**

Scale 1" = 2000'

(Roads & Development Names Added)



**Gates Associated, Inc.**

288 Venice Way (off Rte. 45)

Shepherdstown, West Virginia 25443

[email: gatesassociated@aol.com phone/fax/voicemail: 1-304-876-6124]

# PCV17-01

RECEIVED

JUN 08 2017

JEFFERSON COUNTY PLANNING,  
ZONING & ENGINEERING

# Engineering Report

## Clarion Inn RT 340 Waiver for Pavement Slope 07/11/2017

### Request:

Matt Knott, Family Adventure Resort, LLC, is requesting a waiver from the Jefferson County Subdivision and Land Development Regulations (2016), Section 2.5.1 Off-Street Parking Standards, and Table 2.2-1 Roadway Design Standards, which states:

#### Section 2.5.1

I. Parking area access driveways and entrances leading from the public road or subdivision street, and also the parking area internal access drives connecting physically separated parking bays, shall not exceed an 8% grade.

#### Table 2.2-1

Maximum Commercial Road Grade 9.0%:

The applicant is requesting a waiver to increase the maximum slope of 8% to 10% for section 2.5.1 and 9% to 10% for Table 2.2-1 or what is needed to connect into WVDOH approved plan for Alstadts Hill Road extension.

### Findings:

- The sections of road to have the slope increased appear to be only a short sections within the project boundary.
- The natural contours present a constraint to meeting the subdivision standards.
- The increase in slope would help in reducing the disturbed area.
- The WVDOH is reviewing the extension of Alstadts Hill Road which is connecting into this project.
- At this point and time, the designed slope is at 10%.

### Conclusion:

My understanding is that the increase in slope will be utilized to connect into the WVDOH approved extension of Alstadts Hill Road. The road section will be asphalt pavement. Therefore, engineering would recommend approval of this waiver once the approved plans from the WVDOH are received. However, engineering would recommend that there be a maximum slope of 10% and if a greater slope is needed, another variance is required.



**JEFFERSON COUNTY, WEST VIRGINIA**  
**Dept. of Engineering, Planning, and Zoning**  
**Office of Planning and Zoning**  
 116 East Washington Street, P.O. Box 716  
 Charles Town, WV 25414  
 www.jeffersoncountywv.org

File Number: PCW17-03  
 Staff Initials: CE  
 Sketch Received:   
 List of Adjoiners:   
 Fees Paid: \$100.00

Email: [planningdepartment@jeffersoncountywv.org](mailto:planningdepartment@jeffersoncountywv.org)  
[zoning@jeffersoncountywv.org](mailto: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: Family Adventure Resort LLC  
 Mailing Address: 408 Alstadts Hill Road HF 25425  
 Phone Number: clo 304-676-8256 Email: \_\_\_\_\_

**Applicant Contact Information**

Name: Matt Knott & Paul Raco  
 Mailing Address: above Below  
 Phone Number: \_\_\_\_\_ Email: \_\_\_\_\_

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

Name: Paul J Raco P.J. Raco Consulting LLC  
 Mailing Address: PO Box 548, CT WV 25414  
 Phone Number: 304/676-8256 Email: pracoconsulting@gmail.com

**Physical Property Details**

Physical Address: Clanion Inn Rt 340 Harpers Ferry WV 25425  
 Tax District: HF Map No: 9 Parcel No: 66  
 Parcel Size: 13.95+ acres Deed Book: 1163 Page No: 273

**Zoning District (please check one)**

Residential Growth (RG) <input type="checkbox"/>	Industrial Commercial (IC) <input type="checkbox"/>	Rural (R) <input type="checkbox"/>	Residential-Light Industrial-Commercial (R-LI-C) <input checked="" type="checkbox"/>	Village (V) <input type="checkbox"/>	Neighborhood Commercial (NC) <input type="checkbox"/>	General Commercial (GC) <input type="checkbox"/>	
			Highway Commercial (HC) <input type="checkbox"/>	Light Industrial (LI) <input type="checkbox"/>	Major Industrial (MI) <input type="checkbox"/>	Planned Neighborhood Development (PND) <input type="checkbox"/>	Office/Commercial Mixed-Use (OC) <input type="checkbox"/>

**RECEIVED**

JUN 21 2017

JEFFERSON COUNTY PLANNING, ZONING & ENGINEERING

Place Date Stamp Here

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

See Attached

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

See Attached

**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

**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

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

See Attached

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

See Attached

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



Signature of Property Owner

6/20/17

Date

Signature of Property Owner

Date

**To Be Completed By Office**

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

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

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

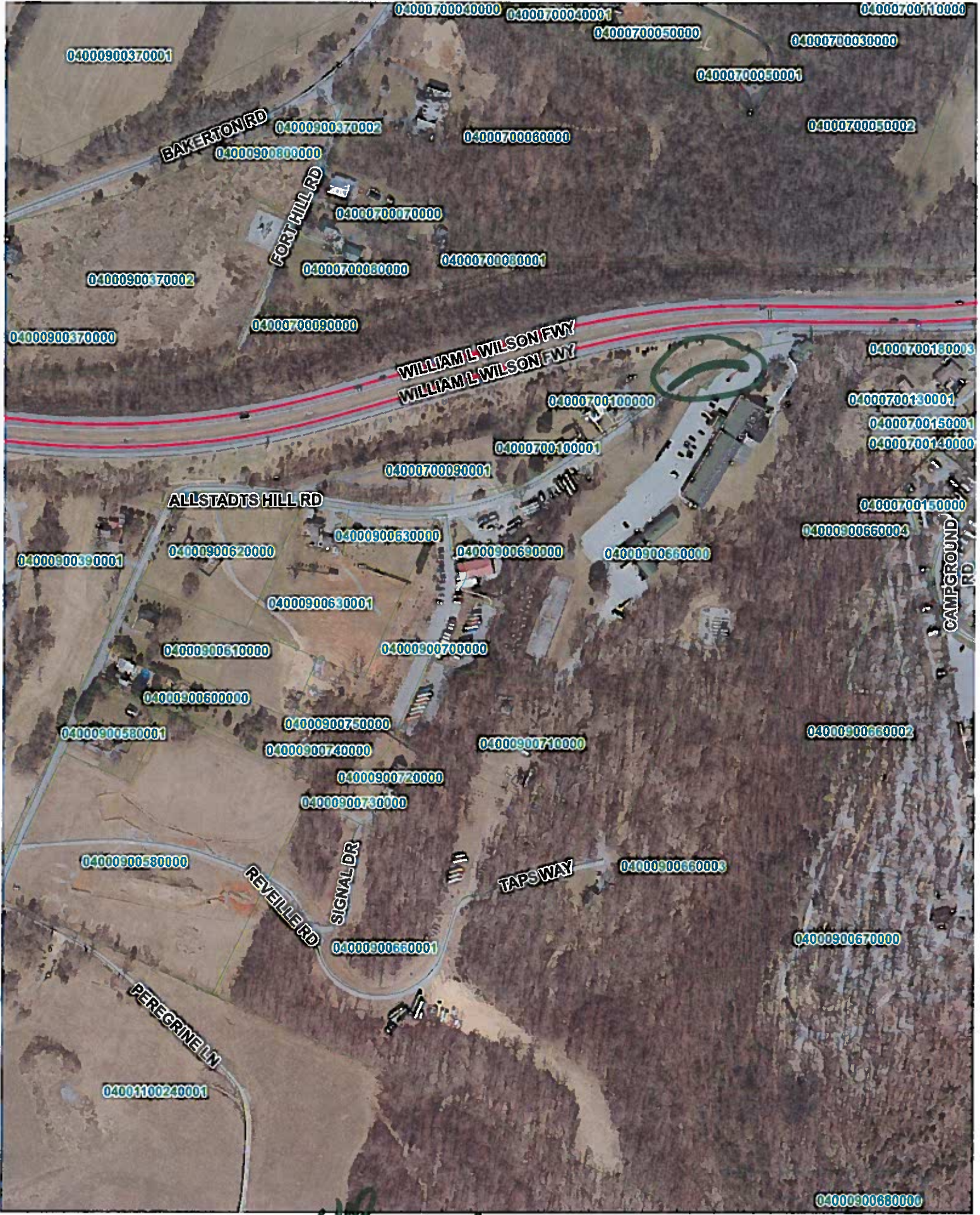
\_\_\_\_\_ Date Adjoiner Letters to be Mailed

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

Approved

Denied





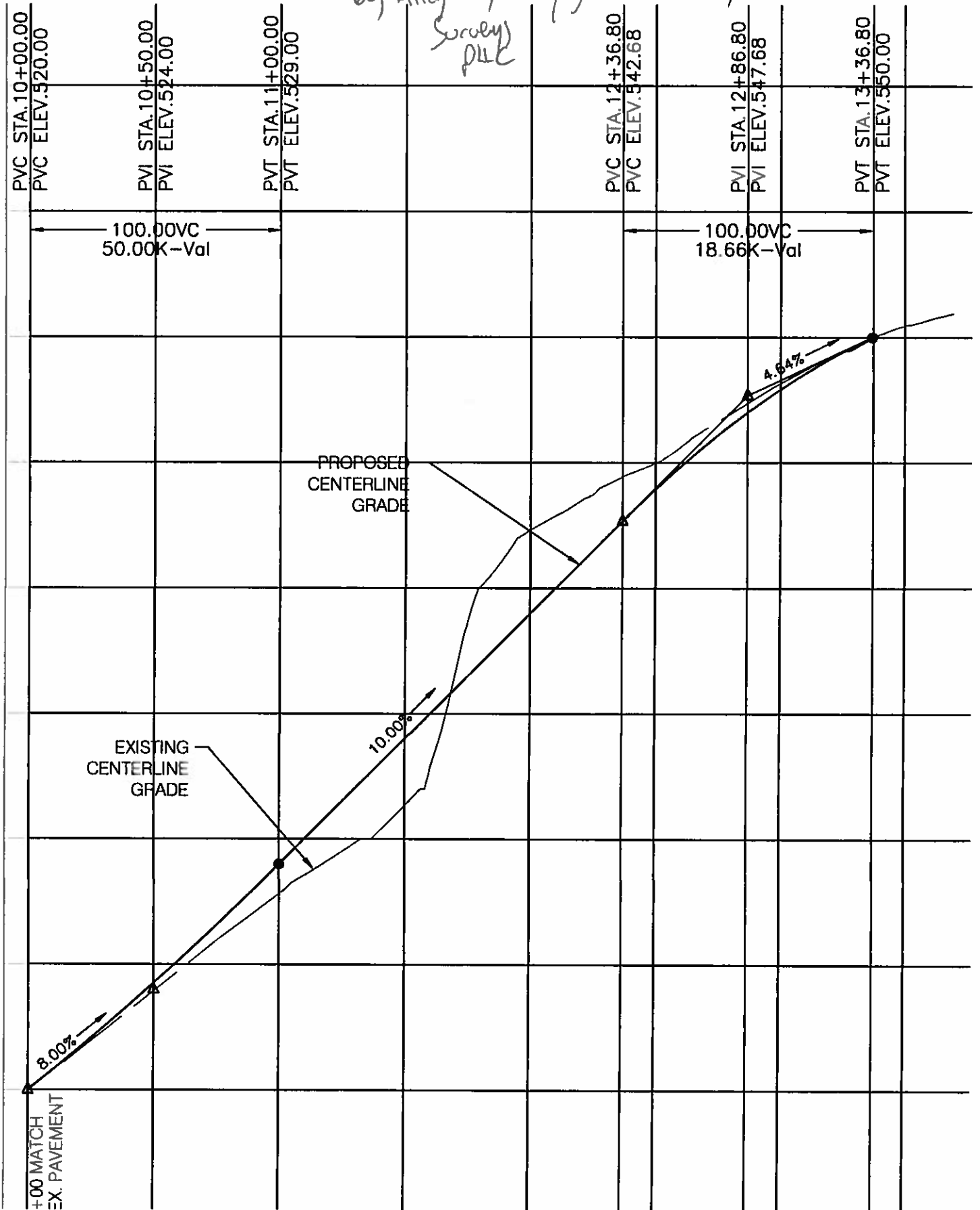
PR 62607

#PCW1703

JUN 21 2017

Prepared  
by Allegheny  
Survey  
PLC

PJR 6/20/17



#PCW17-03

Family Adventure Resort, LLC.  
Waiver Request  
Appendix B  
Sections: 2.5.1 and 2.2-1  
June 20, 2017

RECEIVED

JUN 21 2017

JEFFERSON COUNTY PLANNING,  
ZONING & ENGINEERING

The Applicant is in the process of preparing a site plan that will extend Alstadts Hill Road between River Riders and Clarion Hotel since they are now owned by the same principal. The purpose of this connection is to keep people on the recreational tourism campus without entering on Route 340 when using the facilities on site. The road connection is mostly within the State ROW and will need the State's DOH approval. However, a portion of the extended Alstadts Hill Road will enter onto the Clarion Site and will exceed the maximum road slope standard. The requested waiver is to allow (with DOH concurrence) the increased slope as approved by the DOH onto the Clarion Property. This slope will probably not exceed 10%, but would like the Waiver to read that it be permitted to be what the DOH approves.

Also, please note that before the start of the Site Plan for this connection, the Applicant met on site with DOH Officials, Governor's Representatives and Planning Commission Planning and Engineering Staff. All present thought that the connection would be a great idea. It was acknowledged at that meeting that the slope and connection point would be considered and supported as the project moved to the design stage.

As such, the Applicant is requesting a Waiver from the Jefferson County Subdivision and Site Development Ordinance just in case one is needed. Although there are several cross references for these standards in the Site Development Ordinance, the essence of the request is as follows:

*Appendix B, Section 2.2-1 is a Chart/Table that lists the maximum grade for a Commercial/Industrial Street as 9%.*

After several iterations and reworking of site plan it appears that there may be a need for a waiver to allow the increased slope from the Alstadts Hill in the State ROW into the Clarion Property. The Applicant would like the waiver to apply to any provision in this chart provided the DOH approves the connection.

*Appendix B, Section 2.5.1. This section also mentions a maximum grade of 8% in certain situations of internal access roads.*

The applicant is only citing this section, in case this road would qualify as an internal access roads which would qualify under this section. This proposed road, including the grade, already exists in a different location as a dirt road and was utilized by the previous owners to be an unofficial connection point. The new owner wants to make it a State approved extension. Obviously, the new extended road will primarily be used during the spring, summer and fall months which is the prime time for tourism utilizing these combined facilities.

Although it appears complicated with the various sections and cross references in the ordinance, the Applicant is only asking for basic waivers from the ordinance:

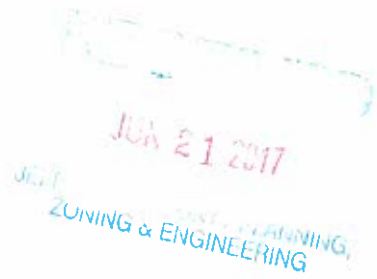
1. To allow the road to exceed 8% or 9% or other provisions of the Chart (depending on which section of the ordinance will apply) in the limited areas as shown on the attached plat as approved by the DOH.

The Applicant is being cautious to include most of these sections of the ordinance regarding access for this area, so that he doesn't have to come back to the PC multiple times once the site plan is submitted. Plus, the road connection will be approved by the DOH, so it will be subject to the State's jurisdiction.

If these waivers aren't approved, the two economic/tourism development areas would remain separate and the users of both facilities would have to enter Route 340 and Millville Road to access the other portion of the recreation complex. Interconnectivity of the two major facilities without entering Route 340 would do a great deal to reduce potential traffic problems, especially during commuter rush hour.

#pcw17-03

Family Adventure Resort, LLC.  
Waiver Request  
Appendix B  
Sections: 2.5.1 and 2.2-1  
June 20, 2017



**Four Criteria:**

1. *Explain how the design of the Project will provide public benefit in the form in the reduction of Public maintenance costs, greater open space, parkland consistent with the County Park Plans or benefits of a similar nature;*

This project will have no Public costs since this is the private construction of a commercial driveway that will be maintained by the owner. There will be no public maintenance costs involved as the infrastructure will be built and maintained with private funds.

The connection of the two commercial recreation and lodging facilities will provide for access between the two without entering onto Route 340. Interconnectivity of projects benefits the community.

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

If the waivers are not granted, the two projects would continue to have to enter Route 340 to access the other property. This would not be conducive to public safety, especially during commuter rush hour. The connection will allow people leaving the Clarion to utilize River Riders the opportunity to do so without accessing the Public Highway.

This roadway as proposed will be reviewed, approved and bonded through both the State DOH and the County.

The approval of the waiver with the DOH's approval will have a positive effect on the neighborhood because of the limited access to Route 340. Also, the neighbors will be able to utilize the road to access the Clarion without entering Route 340.

3. *Explain how the waiver, if granted, will be keeping with the intent and purpose of this ordinance;*

The proposed access road will need to be approved by the DOH since it is mostly within their ROW. The ordinance defers to the DOH for such approvals. Therefore, if the DOH approves the majority of the road within their ROW, it is only logical to approve the small portion on the Clarion property. Otherwise, the DOH approval will mean nothing. The intent of the ordinance is to defer to the DOH for road connections and access roads. Approving the portion on the Clarion conditioned on the DOH approval will meet the intent of the DOH's approval of the balance of the road.

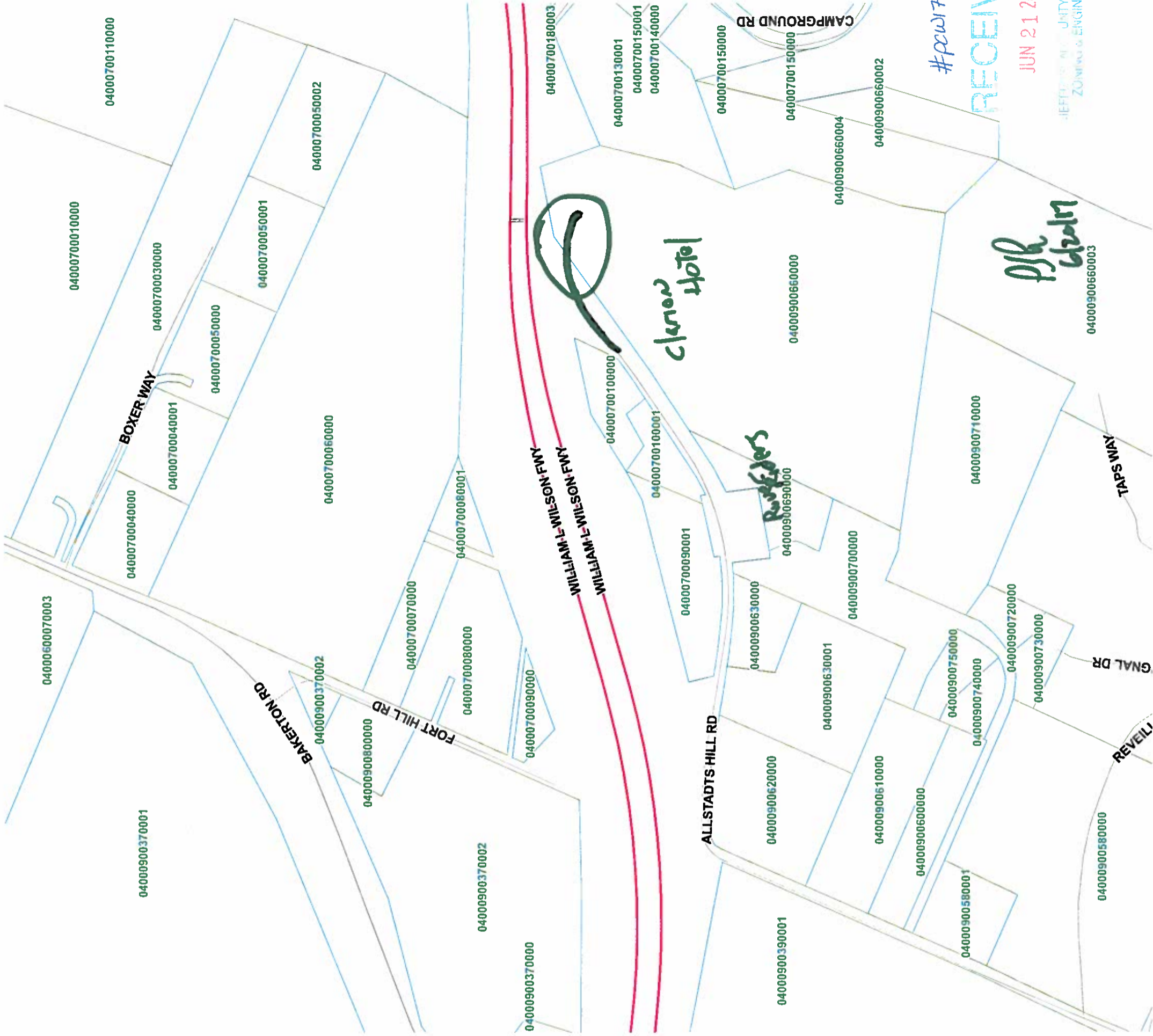
The interconnectivity of the two major tourist destinations certainly meets the intent of the ordinances to minimize access to the State Highway, while maximizing the economic development benefits of the connected facilities.

Additionally, the existing Alstadts Hill Road already was designed and built by the DOH. Continuing the road along the same path (ironically, the original Route 340) seems to just make sense.

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

Again, internally connecting two major tourist destinations so that the patrons can access each facility without entering the Highway System is the logical thing to do. It will improve the safety of the access points, while enhancing economic development. Instead of people leaving the Hotel and heading back to their homes, they will be more likely to extend their stay to utilize the recreational facility. Plus, the owner will be able to market the destination as one connected Resort area. The connection of Alstadts Hill Road with the Clarion Hotel will be subject to the approval of the DOH, which is what the Ordinance recognizes as the final authority.

The Applicant met with DOH officials, Governor Office Officials and the Commission's Planning and Engineering Staff before the expensive Site Plan process began and everyone agreed that this connection would be welcomed. Everyone at that meeting acknowledged that the slope waiver would be a valid consideration of the connection.



#PCW17-03

RECEIVED

JUN 21 2017

JEFFERSON COUNTY PLANNING,  
ZONING & ENGINEERING

PR  
Wm

clear Hotel

Rooftops

GNAL DR

REVELL

TAPS WAY

04000700110000

04000700010000

04000900370001

04000600070003

04000700040000

04000700040001

04000700050000

04000700050001

04000700050002

04000700060000

04000900370002

04000900800000

04000700070000

04000700080000

04000700080001

04000900370002

04000900370000

04000700090000

04000700090001

04000700180003

04000700130001

04000700150001

04000700140000

04000700150000

04000900390001

04000900620000

04000900630001

04000900630000

04000900690000

04000900700000

04000900610000

04000900600000

04000900750000

04000900740000

04000900720000

04000900730000

04000900710000

04000900580000

04000900660003

04000900660004

04000900660002

#pcw17-03

Family Adventure Resort, LLC.  
Waiver Request  
Appendix B  
Sections: 2.5.1 and 2.2-1  
June 20, 2017

Adjoiners:

**Tax Year: 2017**

**Parcel: 04 9006600000000**

**Deeded Owner: FAMILY ADVENTURE RESORT LLC**

Parcel ID: 04 9006600000000

Tax Year: 2017

Deeded Owner: FAMILY ADVENTURE RESORT LLC

C/O:

Owner Address: 408 ALSTADTS HILL RD

City: HARPERS FERRY

State: WV

Zip: 25425

**Tax Year: 2017**

**Parcel: 04 7000600000000**

**Deeded Owner: ARUMUGANATHAN NANDHINI**

Parcel ID: 04 7000600000000

Tax Year: 2017

Deeded Owner: ARUMUGANATHAN NANDHINI

C/O:

Owner Address: 350 BAKERTON RD

City: HARPERS FERRY

State: WV

Zip: 25425

RECEIVED

JUN 21 2017

JEFFERSON COUNTY PLANNING,  
ZONING & ENGINEERING

**Tax Year: 2017**

**Parcel: 04 7001300010000**

**Deeded Owner: BOLIVAR INTERNATIONAL PENECOSTAL CHURCH OF CHRIST**

Parcel ID: 04 7001300010000

Tax Year: 2017

Deeded Owner: BOLIVAR INTERNATIONAL PENECOSTAL CHURCH OF CHRIST

C/O:

Owner Address: 87 OLD TAYLOR LN

City: HARPERS FERRY

State: WV

**Tax Year: 2017**

**Parcel: 04 9006600040000**

**Deeded Owner: RECREATIONAL ADVENTURES CAMP- GROUNDS LLC**

Parcel ID: 04 9006600040000

Tax Year: 2017

Deeded Owner: RECREATIONAL ADVENTURES CAMP- GROUNDS LLC

C/O:

Owner Address: 100N PHILLIPS AVE STE 901

City: SIOUX FALLS

State: SD

**Tax Year: 2017**

**Parcel: 04 9006600030000**

**Deeded Owner: CARPENTER JEFFERY**

Parcel ID: 04 9006600030000

Tax Year: 2017

Deeded Owner: CARPENTER JEFFERY

C/O:

Owner Address: PO BOX 672

City: HARPERS FERRY

State: WV

Zip: 25425

**Tax Year: 2017**

**Parcel: 04 9007100000000**

**Deeded Owner: HARPERS FERRY HOLDINGS LLC**

Parcel ID: 04 9007100000000

Tax Year: 2017

Deeded Owner: HARPERS FERRY HOLDINGS LLC

C/O:

Owner Address: 408 ALSTADTS HILL RD

City: HARPERS FERRY

State: WV

Zip: 25425

**Tax Year: 2017**

**Parcel: 04 9007000000000**

**Deeded Owner: KNOTT MATTHEW P**

Parcel ID: 04 9007000000000

Tax Year: 2017

Deeded Owner: KNOTT MATTHEW P

C/O:

Owner Address: 408 ALSTADTS HILL RD

City: HARPERS FERRY

State: WV

Zip: 25425

**Tax Year: 2017**

**Parcel: 04 9006900000000**

**Deeded Owner: KNOTT MATTHEW P & LAURA A**

Parcel ID: 04 9006900000000

Tax Year: 2017

Deeded Owner: KNOTT MATTHEW P & LAURA A

C/O:

Owner Address: 408 ALSTADTS HILL RD

City: HARPERS FERRY

State: WV 25425

**Tax Year: 2017**

**Parcel: 04 7001000010000**

**Deeded Owner: HARPERS FERRY HOLDINGS LLC**

Parcel ID: 04 7001000010000

Tax Year: 2017

Deeded Owner: HARPERS FERRY HOLDINGS LLC

C/O:

Owner Address: 408 ALSTADTS HILL RD

City: HARPERS FERRY

State: WV

Zip: 25425

**Tax Year: 2017**

**Parcel: 04 7001000000000**

**Deeded Owner: HARPERS FERRY HOLDINGS LLC**

Parcel ID: 04 7001000000000

Tax Year: 2017

Deeded Owner: HARPERS FERRY HOLDINGS LLC

C/O:

Owner Address: 408 ALSTADTS HILL RD

City: HARPERS FERRY

State: WV

Zip: 254253243



# JEFFERSON COUNTY, WEST VIRGINIA

## Office of Planning and Zoning

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

P.O. Box 716

Charles Town, WV25414

[www.jeffersoncountywv.org](http://www.jeffersoncountywv.org)

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

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

---

---

### MEMO

**TO: Planning Commission**  
**DATE: July 11, 2017**  
**RE: Stickel Minor Subdivision, approved August 22, 1989**  
**Request for Planning Commission Direction**

---

---

On August 22, 1989 the Planning Commission approved the Stickel Minor Subdivision with the condition that notes be added to the plat under the minor subdivision requirements and process in the 1979 Subdivision Ordinance. On February 21, 1990 the revised final plat was approved by the Director of Planning. Typically, Final Plats were required to be recorded within 90 Days of approval. No record can be found that indicates that this plat was recorded; therefore, it is considered one legal lot of record. However, the parcel is being taxed as two legal lots of record.

The current property owner would like to sell one of the lots but has not been able to go to closing due to the fact that no record can be found that the plat was recorded.

Staff would like direction from the Planning Commission as to whether the plat may be recorded as originally approved under the 1979 Subdivision Ordinance or if it should process under the current Subdivision Regulations. The applicant will be present to answer any questions.

Please consider the following information:

- Staff has determined that the acreage listed for each individual parcel does not total the Total Acreage listed in the Acreage Table:

Parcel 9B is shown as 5.089 Acres

Parcel 9A is shown as 8.048 Acres

Easement is shown as 0.467 Acres

**Total = 13.604 Acres**

Acreage Table reflects the following:

Acreage Table	
Lots	14.137 Acres
Esmt.	0.467 Acres
Total	<b>14.604 Acres</b>

**There is a discrepancy of 1 acre.**

- The 50' Wide Access Easement shown on the plat appears to actually be 40' wide.
- The surveyor's signature on the plat our Office has on file appears to be a copy. An original signature is required. Should the Planning Commission determine that the previously approved plat may be recorded, a condition of approval should site that the property owner obtain an original signature from the surveyor (R. Michael Shepp).

seller of any lot within this subdivision shall provide Buyer with a reasonable opportunity to cause sufficient to determine that the lots suitable for construction of a Septic Disposal System. If, before settlement, the Buyer is denied a Septic System Construction Permit by the Jefferson County Health Department, the Buyer may refuse to purchase the lot without penalty.

Each parcel shown on this plat shall be restricted to a single family residence only unless otherwise approved by the Planning Commission in conformance with the present County land development laws.

Building Setback Limits: 100 feet all sides.

**STATEMENT OF ACCEPTANCE**  
The developer, in signing this plat, agrees to abide by all conditions, terms & specifications approved hereon.

*WMS Morgan*  
Rusty Morgan - Red Bird Construction  
100 South Gardner St.  
Charles Town, WV 25414 725-6670

Corner are #5 Rebars to be set unless otherwise noted. Point #5, #45, and #46 are unmarked.

\* WV Sec Rte 13 is presently a 30' R/W. The developer intends to donate 10' to make it a 40' Right of Way.

Public Service District may require hooking up to a centralized system when and if it becomes available.

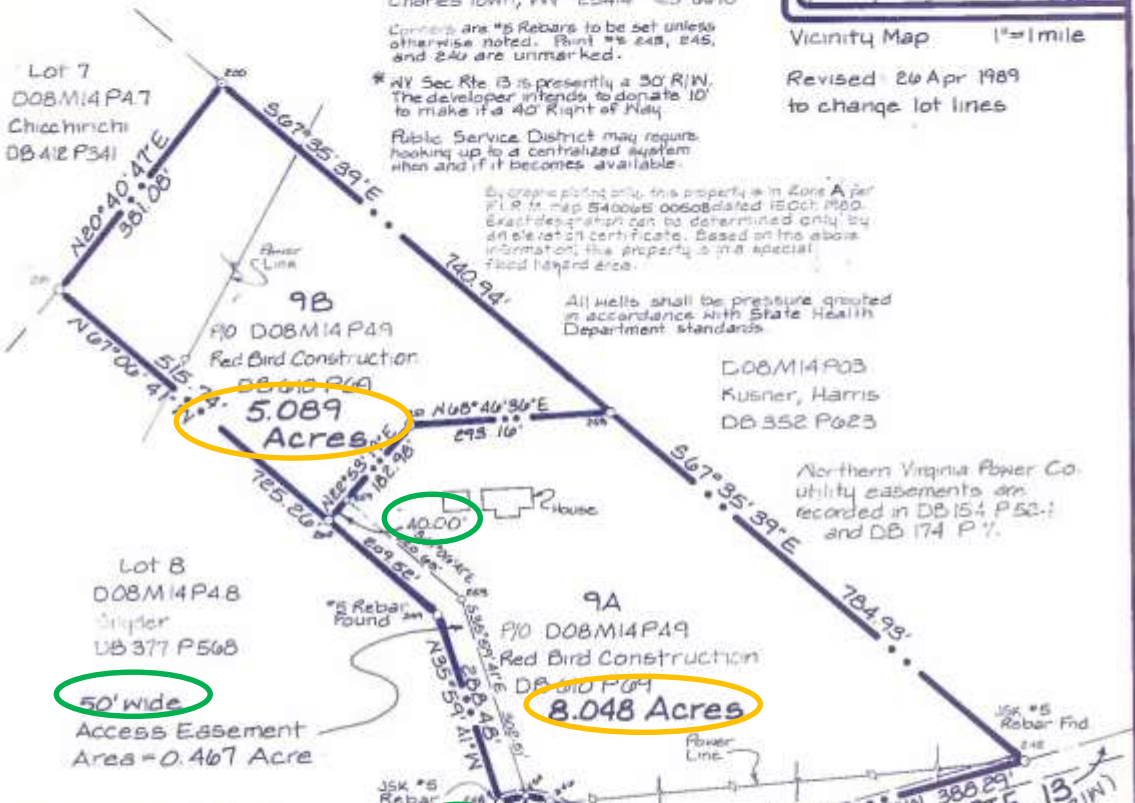
By creating this plat, the property is in Zone A per F.L.R. in map 5400008 00608 dated 15 Oct 1980. Exact elevations can be determined only by an elevation certificate. Based on the above information, the property is in a special flood hazard area.

All wells shall be pressure grouted in accordance with State Health Department standards.



Vicinity Map 1"=1 mile

Revised 26 Apr 1989 to change lot lines



**ACREAGE TABLE**

LOTS	14.137
ESMT.	0.467
<b>TOTAL</b>	<b>14.604</b>

$\Delta = 51^{\circ}20'01''$   
 $R = 82.11'$   
 $A = 73.57'$   
 $T = 39.46'$   
 $Ch = 71.13'$   
 $B = 569^{\circ}40'39''W$

$\Delta = 38^{\circ}22'35''$   
 $R = 385.00'$   
 $A = 257.87'$   
 $T = 133.98'$   
 $Ch = 253.08'$   
 $B = 571.0000004''W$



FINAL PLAT showing  
LOTS 9A & 9B, a  
**MINOR SUBDIVISION**  
**LOT 9**  
**"STICKEL DIVISION"**  
CHARLES TOWN DISTRICT  
JEFFERSON COUNTY, WV  
Date: 5 April 1989

*R. Michael Shepp*  
R. Michael Shepp, LLC  
Jefferson County Surveyor  
**APPALACHIAN SURVEYS INC.**

D10M03 P04  
Claymont Society for  
Continuous Education, Inc.  
DB 386 P 79



Scale: 1"=200'

**SURVEYORS CERTIFICATION**  
I hereby certify that this plat is correct and accurate to the best of my knowledge, that the relative error of closure exceeds 1/10,000, and that this plat contains the information required by WV Code Chapter 36B-2-101.

**AGENDA**  
**JEFFERSON COUNTY PLANNING COMMISSION**  
**AUGUST 22, 1989**

1. WELCOME SCOTT COYLE
2. FINAL PLAT PUBLIC HEARING - W. H. Martin Minor Subdivision  
West side of Route 31 south of its intersection with Route 30. It is to contain 2 lots on 13.7 acres. W. H. Martin is the Developer.
3. FINAL PLAT PUBLIC HEARING - Russell Spring Farm Minor Subdivision  
West side of Route 1/11 at the Virginia/West Virginia line. It is to contain 3 lots on 115.5 acres. Lacy I. Rice, Jr. is the Developer.
4. FINAL PLAT PUBLIC HEARING - Reynolds Minor Subdivision  
North side of Route 17/1 (River Road), just south of Shepherdstown and adjacent to Ridge Valley Subdivision. It is to contain 2 lots on 5 acres. Clayton E. Reynolds is the Developer.
5. FINAL PLAT PUBLIC HEARING - Stickel Minor Subdivision  
North side of Route 13 approximately 3 miles west of its intersection with Route 51. It is to contain 2 lots on 13.137 acres. Red Bird Construction is the developer.
6. Recommendation to Zoning Board of Appeals for a Conditional Use Permit for Shepherd Glen.
7. Community Impact Statement Review for Scotia Run.  
The property is located on Route 9 approximately 1.5 miles west of Route 9 in Ranson. It is proposed to consist of 22 lots 32 acres. Samuel J. Geris is the developer.
8. Request for a Variance of Section 8.2, Subsection A 2 (single entrance/exit) by Scott Leonard on behalf of Samuel Geris for Scotia Run.
9. Multi Use Variance for Larry D. Folmar and Cheri Y. Folmar. Two uses on a single tract of land.
10. Public Hearing on proposed amendments to the Jefferson County Subdivision Ordinance.

MINUTES  
JEFFERSON COUNTY PLANNING COMMISSION  
AUGUST 22, 1989

The Jefferson County Planning Commission met on Tuesday, August 22, 1989, with the President, H. Richard Flaherty, presiding. Other Planning Commission members present were: Bob Warren, Lee Morgan, Bill Senseney, Bob Mason, Cam Tabb and Page Wright. Staff members present were Paul Raco, Paula Coomler and Becky Burns.

Members absent with notification were Charlie Lutman, Scott Coyle and Charlie Clendening.

Betty Braxton was absent without notification.

Page Wright arrived at 7:40 p.m.

The President called the meeting to order. Bob Warren motioned two corrections be made to the Minutes of the August 22, 1989, meeting, and be accepted as corrected. The following corrections were made: Page 1, Item 1, # 3 that the word road be added to industrial grade; and Page 1, last paragraph, motion was made by Charlie Lutman. Bob Mason seconded the motion which carried unanimously.

1. A Final Plat Public Hearing for W. H. Minor Subdivision was held. Paul presented background information. There was no public comment. The Staff and Engineer recommend approval contingent upon the Public Service District hookup and well grouting note being added to the final plat. Motion was made by Bob Mason to accept the final plat contingent upon the Staff's recommendations. Bill Senseney seconded the motion which carried unanimously.

2. A Final Plat Public Hearing for Russell Spring Farm Minor Subdivision was held. Paul presented background information. There was no public comment. All items of the subdivision ordinance have been met; Staff and Engineer recommend approval contingent upon the final plats being submitted. Motion was made by Bill Senseney to accept the final plat contingent upon the final plats being submitted. Lee Morgan seconded the motion which carried unanimously.

3. A Final Plat Public Hearing for Reynolds Minor Subdivision was held. Paul presented background information. There was no public comment. Staff and Engineer recommended approval contingent upon two notes being added to the final plat in regards to lot labeling, and a note stating that setbacks not apply to existing structures. Motion was made by Bob Mason to accept the final plat contingent upon the Staff's recommendations. Bob Warren seconded the motion which carried with a vote of 6 for and 1 abstention..

4. A Final Plat Public Hearing for Stickel Minor Subdivision was held. Paul presented background information. There was no public comment. Staff and Engineer recommended approval contingent upon

notes being added to the final plat regarding pressure grouting of all wells and Public Service District hookup. Motion was made by Bob Warren to accept the final plat subject to the Staff's contingencies. Bob Mason seconded the motion which carried unanimously.

5. Recommendation to appear before the Zoning Board of Appeals for a Conditional Use Permit for Shepherd Glen. Dick Flaherty explained the purpose of the meeting and the procedures to be followed according to the Zoning Ordinance. Paul presented a Staff report of the Neighborhood Compatibility Hearing. Dick asked members of the audience (who had attended the Neighborhood Compatibility Hearing) if they were in agreement with what Paul had read and stated. Handouts concerning the project were also given to all of the P.C. members to review.

Mike Shepp represented additional information on the project. It was noted by Mike that 50% of the property is being left in green space and according to the Subdivision Ordinance Mr. Reynolds, as developer of the project is entitled to twice the density that he is proposing. Mike also stated that the sidewalk issue had been resolved with the Shepherdstown Day Care.

The following is a list of people in attendance at the meeting who gave public comments: Mike Taylor, John Barry, Tim Broome, Mike Lowry, John Demer, Shannon Donaly, Melo Cicala, Mr. Shultz, and Mr. May.

After much discussion on this project Paul gave a summarization of the meeting. The Staff and Engineer recommend issuance of a Conditional Use Permit to the Zoning Board of Appeals subject to the following conditions:

1. No accessibility to through roads.
2. Traffic study prepared and contacting the State Highway Department.
3. Permits received from the Health Department.

Bob Warren motioned to recommend issuance of the permit subject to the Staff's contingencies. Bob Mason seconded the motion which passed with a 4 - 3 vote.

7. Community Impact Statement review was held for Scotia Run. Scott Leonard present the project. Paul noted that the Planning Commission had approved the CIS for this project last year and that the most of the items needing to be completed were clerical. Staff and Engineer recommend acceptance of the CIS contingent upon the widening of the single entrance. It was moved by Bill Senseney to accept the CIS subject to the Staff's contingencies. Cam Tabb seconded the motion which was unanimous.

seller of any lot within this subdivision shall provide Buyer with a reasonable opportunity, before settlement to determine that the lot is suitable for construction of a Septic Disposal System. If, before settlement, the Buyer is denied a Septic System Construction Permit by the Jefferson County Health Department, the Buyer may refuse to purchase the lot without penalty.

Each parcel shown on this plat shall be restricted to a single family residence only unless otherwise approved by the Planning Commission in conformance with the prevailing County land development laws.

Building Setback Limits 100 feet all sides

**STATEMENT OF ACCEPTANCE**  
The developer, in signing this plat, agrees to abide by all conditions, terms & specifications provided hereon.

*RMS Morgan* *Red Bird Const*  
Rusty Morgan, Red Bird Construction  
600 South Mildred St.  
Charles Town, WV 25414 725-6670

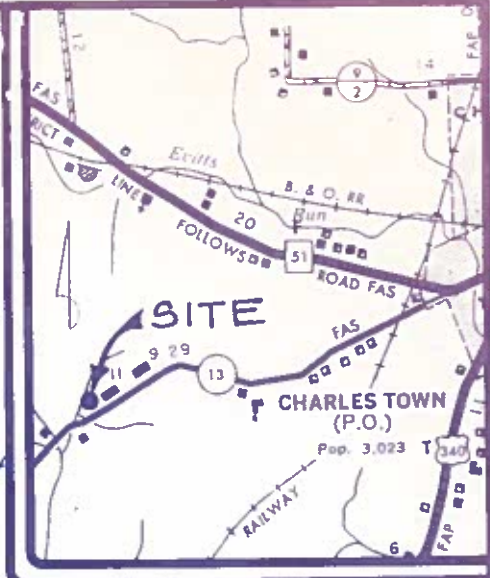
Corners are #5 Rebars to be set unless otherwise noted. Point #5, #45, and #46 are unmarked.

\* WV Sec Rte 13 is presently a 30' R/W. The developer intends to donate 10' to make it a 40' Right of Way.

Public Service District may require hooking up to a centralized system when and if it becomes available.

By graphic plotting only, this property is in Zone A per F.L.R.M. map 540065 0050 dated 15 Oct. 1980. Exact designation can be determined only by an elevation certificate. Based on the above information, this property is in a special flood hazard area.

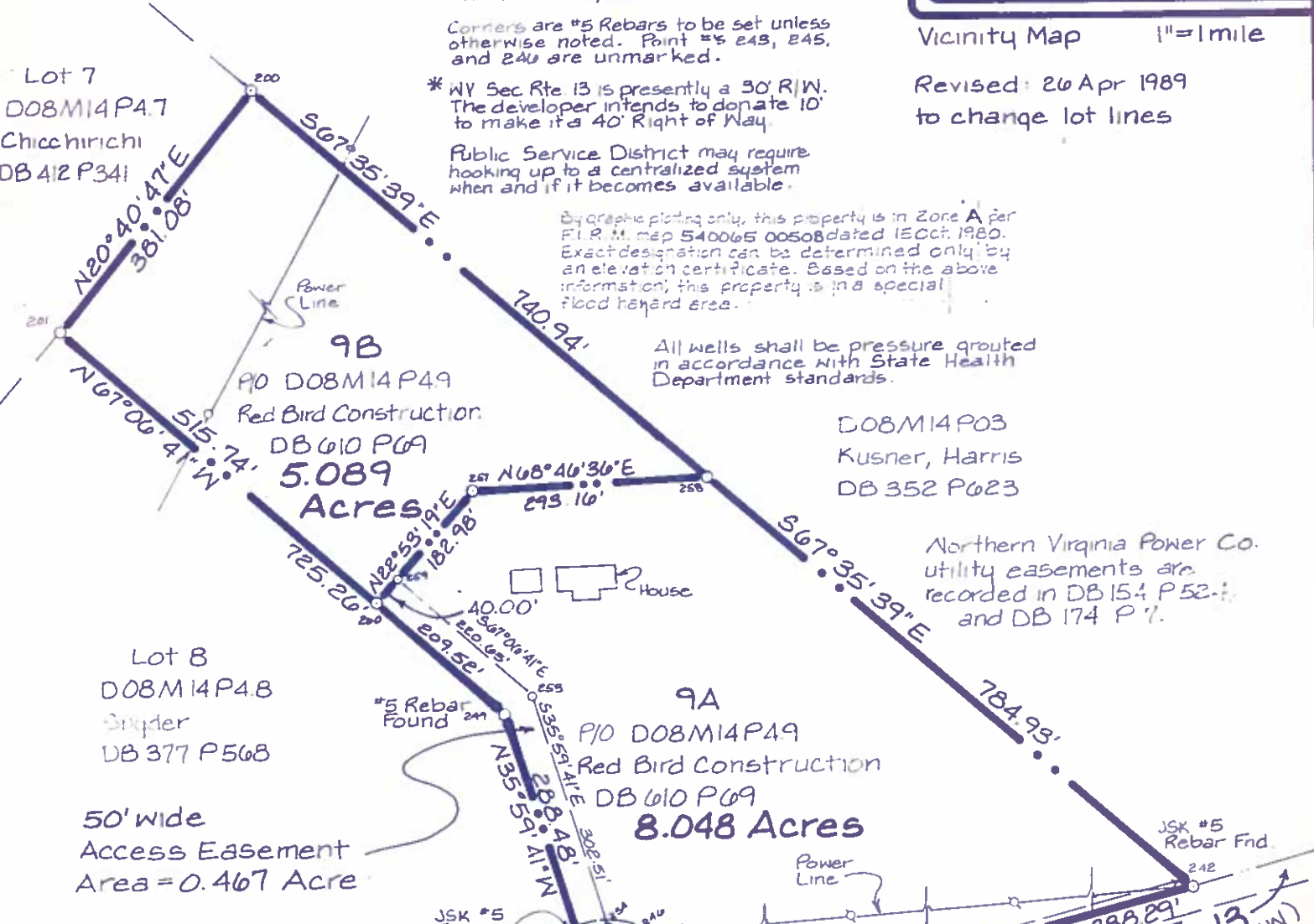
All wells shall be pressure grouted in accordance with State Health Department standards.



Vicinity Map 1"=1 mile

Revised: 26 Apr 1989  
to change lot lines

Lot 7  
D08M14P4.7  
Chicchirichi  
DB 412 P341



**ACREAGE TABLE**

LOTS	14.137
ESMT.	0.467
<b>TOTAL</b>	<b>14.604</b>

$\Delta = 51^{\circ}20'01''$   
 $R = 82.11'$   
 $A = 73.57'$   
 $T = 39.46'$   
 $Ch = 71.13'$   
 $B = 569^{\circ}40'39''W$

Northern Virginia Power Co. utility easements are recorded in DB 154 P 52-1 and DB 174 P 1.



FINAL PLAT showing  
LOTS 9A & 9B, a  
**MINOR SUBDIVISION**  
**LOT 9**  
**"STICKEL DIVISION"**  
CHARLES TOWN DISTRICT  
JEFFERSON COUNTY, WV  
Date: 5 April 1989

D10M03 P04  
Claymont Society for  
Continuous Education, Inc.  
DB 386 P 79



Approved  
Subdivision  
Paul J. Peco  
Director of  
Planning  
February 21, 1989



Scale: 1"=200'

**SURVEYOR'S CERTIFICATION**  
I hereby certify that this Plat is correct and accurate to the best of my knowledge, that the relative error of closure exceeds 1/10,000, and that this plat contains the information required by WV Code Chapter 36B-2-109.

*R. Michael Shepp*  
R. Michael Shepp, LLS      Jefferson County Surveyor  
**APPALACHIAN SURVEYS INC.**



# JEFFERSON COUNTY, WEST VIRGINIA

## Office of Planning and Zoning

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

P.O. Box 716

Charles Town, WV25414

[www.jeffersoncountywv.org](http://www.jeffersoncountywv.org)

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

Phone: (304) 728-3228

Fax: (304) 728-8126

---

---

### MEMO

**TO: Planning Commission**  
**FROM: Alexandra Beaulieu, Zoning Administrator and  
Jennifer M. Brockman, AICP, County Planner**  
**DATE: July 11, 2017**  
**RE: Section 5.7D.2 – Clustering – Request for Clarification or Direction**

---

---

The Zoning Text Amendment approved by the County Commission on March 16, 2017 included modification of Section 5.7D.2, the Cluster provisions, to allow an increase in the number of lots permitted under a new sliding scale. The Planning Commission also recognized that some landowners may have maximized their development rights utilizing the “by-right” 1 lot per 15 acres or the old Cluster provisions of 1 lot per 10 acres since Zoning was approved in 1988 and wanted to ensure that they could utilize these new provisions provided that they met the intent of the Cluster section. To this end, they added a provision 5.7D.2b.(ii) which states:

“ii. The residue of a lot divided utilizing either 5.7D.1 or 5.7D.2 prior to the date of adoption of this amendment on March 16, 2017, shall have additional rights based on the provisions of this Subsection, provided that the total lots developed shall not exceed one lot per five acres based on the parent parcel on October 5, 1988 and all other provisions of this Subsection are complied with.”

An additional requirement to process a cluster subdivision is to retain green space.

Section 5.7D.2b.i(b) reads,

“A minimum of 50% of the property shall be retained as green space and shall contain no further development rights unless the property is placed in another zone or further subdivision is allowed by ordinance. A not to this effect shall be placed on all cluster subdivision plats.”

As applicants have been trying to determine whether the provisions provide them with additional development rights, staff has realized that the language of the Ordinance may not be clear. Staff has been calculating the 50% based on the 1988 acreage, which works if the parcel has never been subdivided or has only has a few lots subdivided since 1988. However, parcels which utilized the old 1 lot per 10 acres cluster provision are typically unable to utilize the 1 per 5 when calculating the 50% green space off the 1988 acreage. Below is an example.



**1988 Acreage = ~133 acres**

**1988 – 2017 = ~ 12 parent to child lots**

**1988 - 1996 = 12 Lots created; ~57 acre Residue**

**2017 = New Cluster Provision allows for 1 Lot Per 5 Acres;**

**133 acres / 5 = 26 Lots; 50 % of 133 acres = 66.5 acres required for green space**

**Residue may be subdivided; 57 – 66.5 acres = 0 acres to create an additional 14 lots.**

**Family transfer (parent to child) lots are exempt from density, even though they deduct from total acreage and create additional traffic.**

**Should the green space be calculated utilizing the 1988 acreage (like how the 1 lot per 5 acres is calculated), or should the green space be calculated utilizing the current residue acreage?**

**For the above example:**

**Residue = ~57 acres; 50% of 57 = 28.5 acres; 28.5 acres to create the additional 14 lots utilizing the 1 lot per 5 acres.**



# Jefferson County, West Virginia

Office 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)

Phone: (304) 728-3228

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

Fax: (304) 728-8126

---

## Planner's Memorandum Planning Commission Meeting July 11, 2017

- 1) **Upcoming Zoning Ordinance and Subdivision Regulation Amendments**
  - a) **Historic Resource Demolition and Adaptive Reuse**
    - Planning Commission Public Hearing July 11, 2017.
  - b) **Landscape Standards**
    - Stakeholder meeting with staff held – draft amendment in progress
  - c) **Signage**
    - Including animated vs digital signs to be addressed; sign industry may need early input
  - d) **Parking Standards**
  - e) **Subdivision Regulations Amendments**
    - Staff meeting with surveying community regarding proposed amendments related to sections requiring frequent interpretations and issues, including but not limited to processing mergers/lot line adjustments; contents of minor subdivisions, etc. scheduled for July 25, 2017 at 3:00 pm.
- 2) **Annual Planning Commission Training**
  - a) Topic and date to be determined.
- 3) **Upcoming PC meeting**
  - a) Next Regular Meeting: August 8, 2017



RECEIVED

JUN 30 2017

JEFFERSON COUNTY PLANNING,  
ZONING & ENGINEERING

## CORPORATION OF SHEPHERDSTOWN

104 NORTH KING STREET  
P.O. Box 248  
SHEPHERDSTOWN, WEST VIRGINIA 25443-0248  
TEL: (304)876-2312  
FAX: (304) 876-1473

Donnie Fisher, President  
Jefferson County Planning Commission  
P.O. Box 716  
Charles Town, WV 25414

June 26, 2017

Dear Mr. Fisher,

On May 23, 2017, the Jefferson County Planning Commission (JCPC) approved development of a Dollar General store to be located at 7174 Martinsburg Pike near Shepherdstown (file #S17-05). The Shepherdstown Planning Commission (SPC) is deeply concerned with the outcome and the process that led to this decision. In this letter, I offer comments on behalf of the Shepherdstown Planning Commission (SPC), as approved on June 19, 2017.

First, Highway 45, which borders the site to the North, constitutes a gateway to Shepherdstown and was included as a Special Design Area (SDA) in the Jefferson County Comprehensive Plan, Envision 2035. At the May 23 meeting, the JCPC argued that since no standards have been developed for the SDA, there could be no consideration of the SDA. Unfortunately, this decision by the JCPC undermines the intent of the Comprehensive Plan and breaks the trust with County residents who participated in the planning process and expected it to be implemented. **We therefore request the County develop SDA standards before additional projects are approved in this area.**

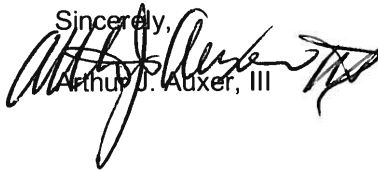
Second, the re-zoning process for this parcel was problematic. A presentation on the Shepherdstown Preferred Growth Area was made to the Shepherdstown Planning Commission during the Envision 2035 development process and this area was subsequently expanded without informing the Town. In our view, the approved development is incompatible with the adjacent residential zone. Indeed, many County residents expressed their concern about this development at the May 23 meeting. Critical issues were raised regarding traffic safety, future development, noise and light pollution.

Third, the parcel is within the Shepherdstown Growth Management Boundary (GMB). This boundary was designed to allow the Corporation some level of management (in cooperation with the County) as to future growth within that boundary. The Corporation was directed by the County in 2012/2013 to establish such a boundary in accordance with state code. The Corporation obliged, established a boundary that was believed to be appropriate and, on May 15, 2014, the County approved it. However, there was no communication from the County to the

Corporation when this parcel(s) was included in the Preferred Growth Area and subsequently rezoned from residential to commercial. Again, this action by the County clearly undermines what the Corporation was lead to believe was one intent of a municipal GMB (or Urban Growth Boundary). Thus, the Corporation sent a request for a Memorandum of Understanding (MOU) to the County in September of 2015 and received a letter of denial in June of 2016. **Once again, the Corporation of Shepherdstown requests that an MOU be established between the County and the Town (the specifics of which can be negotiated).**

It is our understanding that our request for the development of a MOU will be added to the Jefferson County Commission agenda in July by Caleb Hudson. The importance of our request is underscored by the recent decision by the JCPC to approve commercial development on Route 45 without SDA standards. The MOU would be an opportunity to jointly address SDA standards for all gateways to Shepherdstown, and would improve our working relationship with the County.

Thank you for considering my comments. We look forward to your response on the requests we detail above. Please feel free to contact me for additional information or clarification.

Sincerely,  
  
Arthur J. Auxer, III

Mayor

cc. Chazz Printz, Bowles Rice  
Jane Tabb, County Commission Vice President  
Patsy Noland, County Commissioner  
Josh Compton, County Commissioner  
Caleb Hudson, County Commissioner  
Peter Onoszko, County Commission President  
Jennifer Brockman, County Planner  
Andrew Temple, Shepherdstown Chronicle  
Michael Chalmers, The Observer  
Tim Cook, Martinsburg Journal